EXTENDING JURISDICTION OF THE UNITED STATES OVER CERTAIN OCEAN AREAS

HEARINGS

BEFORE THE

COMMITTEE ON ARMED SERVICES

UNITED STATES SENATE

NINETY-THIRD CONGRESS

SECOND SESSION

ON

S. 1988

A BILL TO EXTEND ON AN INTERIM BASIS THE JURISDICTION OF THE UNITED STATES OVER CERTAIN OCEAN AREAS AND FISH IN ORDER TO PROTECT THE DOMESTIC FISHING INDUSTRY, AND FOR OTHER PURPOSES

OCTOBER 8, 9, AND 11, 1974

Printed for the use of the Committee on Armed Services

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EXTENDING JURISDICTION OF THE UNITED STATES OVER CERTAIN OCEAN AREAS

TUESDAY, OCTOBER 8, 1974

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 212, Richard B. Russell Senate Office Building, Hon. John C. Stennis, chairman.

Present: Senators Stennis (presiding), McIntyre, Byrd, Jr., of Virginia, Nunn, Thurmond, and Taft.

Also present: T. Edward Braswell, Jr., chief counsel and staff director; John Ticer, chief clerk; Charles J. Conneely, John A. Goldsmith, Edward B. Kenny, Robert Q. Old, professional staff members; W. Clark McFadden II, counsel; Phyllis A. Bacon, assistant chief clerk; and Christine E. Cowart, clerical assistant.

The CHAIRMAN. The committee will come to order.

The committee meets today to consider the Emergency Marine Fisheries Protection Act of 1974. We are pleased to have with us this morning as witnesses, Gen. George S. Brown, chairman, Joint Chiefs of Staff and Mr. John Norton Moore, chairman, National Security Council Interagency—Task Force on the Law of the Sea, Department of State. In addition, we hope to be able to hear from Senator Magnuson later this morning.

This bill was exhaustively studied by the Commerce Committee, under the leadership of Senator Magnuson, and after full hearings was favorably reported with amendments on August 8, 1974.

The bill was then referred to the Committee on Foreign Relations which also held hearings. Indeed, Mr. Moore who is with us this morning testified in those hearings. On September 23, 1974, the Senate Foreign Relations Committee reported out the bill unfavorably.

On September 30, 1974, the bill was referred by unanimous consent to the Committee on Armed Services with instructions to report back not later than November 15, 1974. Because of the impending congressional recess, the committee is trying to expedite these hearings as efficiently as possible to meet the November 15 deadline.

In its present form the bill would establish a contiguous fishery zone of the United States to an outward boundary of 200 miles from the baseline of the territorial sea of the United States. Within this zone the United States would manage and conserve all fish with the exception of certain highly migratory species.

Most importantly, the bill would grant preferential fishing rights to the United States and at the same time exclude foreign fishing vessels unless they are specifically authorized to fish within the 200 miles and have paid a reasonable fee to the United States. Criminal sanctions accompany the prohibition against unauthorized foreign fishing and the U.S. Coast Guard is directed to enforce the regulations issued under the bill.

It is the purpose of this committee to consider the national security implications of this bill. We are especially interested in what effect this bill may have on our military flexibility. Similarly, we would like to explore the national security problems that may arise in attempting to enforce such legislation. In asking you to concentrate on the national security aspects of this bill, however, I would not intend to arbitrarily restrict you from discussing other aspects of this bill which you deem significant.

This bill has been sponsored by 22 Senators. It is designed to protect the domestic fishing industry as well as conserve a valuable national resource. Given the domestic importance of this legislation, it is imperative that we fully and carefully define its impact on national security.

[S. 1988 follows.]

93D CONGRESS
2D SESSION

S. 1988

[Report No. 93–1079]
[Report No. 93–1166]

IN THE SENATE OF THE UNITED STATES

JUNE 13, 1973

Mr. MAGNUSON (for himself, Mr. COTTON, Mr. HOLLINGS, Mr. JACKSON, Mr. PASTORE, Mr. STEVENS, Mr. BEALL, Mr. BIBLE, Mr. BUCKLEY, Mr. HUGHES, Mr. MCINTYRE, Mr. RIBICOFF, Mr. WEICKER, Mr. RANDOLPH, Mr. LONG, Mr. STEVENS, Mr. INOUYE, Mr. HELMS, Mr. PACKWOOD, Mr. GRAVEL, Mr. TOWER, and Mr. GURNEY) introduced the following bill; which was read twice and referred to the Committee on Commerce

AUGUST 8, 1974

Reported by Mr. MAGNUSON, with amendments

[Strike out all after the enacting clause and insert the part printed in italic]

AUGUST 8, 1974

Referred to the Committee on Foreign Relations for not to exceed twenty-one days

SEPTEMBER 23, 1974

Reported by Mr. FULBRIGHT, unfavorably, without amendment

SEPTEMBER 30, 1974

Referred to the Committee on Armed Services, by unanimous consent, with instructions to report back not later than November 15, 1974

A BILL

To extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, 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 "Interim Fisheries Zone Extension and Management Act of 1973".~~

~~FINDINGS AND STATEMENT OF PURPOSE~~

~~SEC. 2. (a) The Congress finds—~~

(1) that valuable coastal and anadromous species of fish and marine life off the shores of the United States are in danger of being seriously depleted, and in some cases, of becoming extinct:

(2) that stocks of coastal and anadromous species within the nine-mile contiguous zone and three-mile territorial sea of the United States are being seriously depleted by foreign fishing efforts beyond the existing twelve-mile fisheries zone near the coastline of the United States;

(3) that international negotiations have so far proved incapable of obtaining timely agreement on the protection and conservation of threatened species of fish and marine life;

(4) that there is further danger of irreversible depletion before efforts to achieve an international agreement on jurisdiction over coastal and anadromous fisheries result in an operative agreement; and

(5) that it is therefore necessary for the United States to take interim action to protect and conserve overfished stocks and to protect our domestic fishing industry.

(b) It is the purpose of this Act, as an interim measure, to extend the contiguous fisheries zone of the United States and certain authority over anadromous fish of the United States in order to provide proper conservation management

for such zone and fish and to protect the domestic fishing industry until general agreement is reached in international negotiations of law of the sea with respect to the size of such zones and authority over such fish, and until an effective international regulatory regime comes into full force and effect.

EXTENSION OF CONTIGUOUS FISHERIES ZONE

SEC. 3. Section 2 of the Act entitled "An Act to establish a contiguous fishery zone beyond the territorial sea of the United States," approved October 14, 1966 (80 Stat. 908), is amended by striking "nine nautical miles from the nearest point in the inner boundary." and inserting in lieu thereof "one hundred and ninety-seven miles from the nearest point in the inner boundary."

EXTENSION OF JURISDICTION OVER ANADROMOUS FISH

SEC. 4. (a) The United States hereby extends its jurisdiction to its anadromous fish wherever they may range in the oceans to the same extent as the United States exercises jurisdiction over fish in its territorial waters and contiguous fisheries zone except that—

(1) such extension of jurisdiction shall not extend to the territorial waters or fishery zone of another country; and

(2) sixty days after written notice to the President of the Senate and the Speaker of the House of Representatives of intent to do so, the Secretary of the Treasury may authorize a vessel other than a vessel of the

United States to engage in fishing for such fish in areas to which the United States has extended jurisdiction pursuant to this section upon determining, after consultation with the Secretary of State and the Secretary of Commerce, that such fishing would not result in depletion of such fish beyond the level necessary for proper conservation purposes.

(b) As used in this Act the term "anadromous fish" means all living resources originating in inland waters of the United States and migrating to and from waters outside the territorial waters and contiguous fisheries zone of the United States.

PROMOTION OF PURPOSES OF ACT BY TREATIES AND AGREEMENTS

SEC. 5. The Secretary of State shall—

(1) initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in commercial fishing operations for fish protected by this Act, for the purpose of entering into treaties or agreements with such countries to carry out the policies and provisions of this Act;

(2) review and, if necessary, initiate the amendment of treaties, conventions, and agreements to which the United States is a party in order to make such treaties, conventions, and agreements consistent with

~~the policies and provisions of this Act;~~

~~(3) seek treaties or agreements with appropriate contiguous foreign countries on the boundaries between the waters adjacent to the United States and waters adjacent to such foreign countries for the purpose of rational utilization and conservation of the resources covered by this Act and otherwise administering this Act; and~~

~~(4) seek treaties or agreements with appropriate foreign countries to provide for the rational use and conservation of—~~

~~(a) coastal fish common both to waters over which the United States has jurisdiction and to waters over which such foreign countries have jurisdiction through measures which will make possible development of the maximum yields from such fish;~~

~~(b) anadromous fish spending some part of their life cycles in waters over which such foreign countries have jurisdiction through measures which restrict high seas harvesting and make available to the fishermen of such foreign countries an equitable share of such anadromous fish which are found in their territorial waters;~~

~~(c) fish originating in the high seas through strengthening existing or, where needed, creating new international conservation organizations; and~~

~~(d) coastal fish in waters over which other countries have jurisdiction through measures which make possible the harvesting by United States fishermen of an appropriate share of such fish not being harvested by the coastal country, under users' fees, licences, and regulations which are nondiscriminatory and nonpunitive and take United States traditional fishing into account.~~

~~RESEARCH~~

~~SEC. 6. The Secretary of Commerce is authorized to promote the conservation of fish originating in the United States territorial sea and contiguous fisheries zone and anadromous fish by carrying out such research, or providing financial assistance to public or private agencies, institutions, or persons to carry out research, as may be necessary.~~

~~REGULATIONS~~

~~SEC. 7. There are authorized to be promulgated such regulations as may be necessary to carry out the provisions of this Act, but the sums appropriated for any fiscal year shall not exceed $1,000,000.~~

~~EFFECTIVE DATE~~

~~SEC. 9. The provisions of this Act shall become effective on the date of enactment of this Act, except that the provisions of sections 3 and 4 shall become effective after ninety days following such date of enactment.~~

~~TERMINATION DATE~~

~~SEC. 10. This Act shall cease to be in effect on the date the Law of the Sea Treaty or Treaties now being developed regarding fisheries jurisdiction and conservation shall enter into force.~~

~~SEC. 11. Nothing contained in this Act shall be construed to abrogate any treaty or convention to which the United States is a party on the date of the enactment of this Act.~~

That this Act may be cited as the "Emergency Marine Fisheries Protection Act of 1974".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

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

(2) Stocks of coastal and anadromous species which inhabit waters of the 3-mile territorial sea and the existing 9-mile contiguous fishery zone of the United States are being depleted by foreign fishing efforts outside the 12-mile combined zone in which the United States presently possesses fishery management responsibility and authority.

(3) International negotiations have so far failed to result in effective international agreements on the conservation and management of threatened stocks of fish.

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

(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act—

(1) to take emergency action to protect and conserve threatened stocks of fish by asserting fishery management responsibility and authority over fish in an extended contiguous fishery zone and over certain species of fish beyond such zone, until a general international agreement on fishery jurisdiction comes into force or is provisionally applied;

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

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

(4) to commit the Federal Government to act to prevent further depletion, to restore depleted stocks, and to protect and conserve fish to the full extent of such emergency responsibility and authority, and to provide for the identification, development, and implementation within 2 years of the date of enactment of this Act of the best practicable management system consistent with the interests of the Nation, the several States, and of other nations.

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

(1) to maintain the existing territorial or other ocean jurisdiction of the United States without change, for all purposes other than the protection and conservation of certain species of fish and fish in certain ocean areas pending international agreement on fishery jurisdiction;

(2) to authorize no action, activity, or assertion of jurisdiction in contravention of any existing treaty or other international agreement to which the United States is party other than that necessary to further the purposes of this Act; and

(3) to authorize no impediment to or interference with the legal status of the high seas, except with re-

spect to fishing to the extent necessary to implement this Act.

DEFINITIONS

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

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

(2) "citizen of the United States" means any person who is a citizen of the United States by birth, by naturalization or other legal judgment, or, with respect to a corporation, partnership, or other association, by organization under and maintenance, after the date of enactment of this Act, in accordance with the laws of any State: Provided, That (A) the controlling interest therein is owned or beneficially vested in individuals who are citizens of the United States; and (B) the chairman, and not less than two-thirds of the members, of the board of directors or other governing board thereof are individuals who are citizens of the United States;

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

(4) "contiguous fishery zone" means a zone contiguous to the territorial sea of the United States within which the United States exercises exclusive fishery management and conservation authority;

(5) "controlling interest" means (A) 75 percent of the stock of any corporation, or other entity, is vested in citizens of the United States free from any trust or fiduciary obligation in favor of any person not a citizen of the United States, (B) 75 percent of the voting power in such corporation, or such other entity, is vested in citizens of the United States, (C) no arrangement or contract exists providing that more than 25 percent of the voting power in such corporation, or such other entity, may be exercised in behalf of any person who is not a citizen of the United States, and (D) by no means whatsoever is control of any interest in such corporation, or such other entity, conferred upon or permitted to be exercised by any person who is not a citizen of the United States;

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

(7) "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting of any species of fish for any purpose, and any activity at sea in support of such actual or attempted catching, taking, or harvesting;

(8) "fishing vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to be used for, or a type which is normally used for, fishing;

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

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

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

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

(13) "Secretary" means the Secretary of Commerce, or his delegate;

(14) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the territories and possessions of the United States;

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

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

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

FISHERIES MANAGEMENT RESPONSIBILITY

SEC. 4. (a) CONTIGUOUS FISHERY ZONE.—(1) There is established, for the duration of this Act, a fishery zone contiguous to the territorial sea of the United States. The United States shall exercise exclusive fishery management

responsibility and authority within this contiguous fishery zone.

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

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

(b) ANADROMOUS SPECIES.—The fishery management responsibility and authority of the United States with respect to anadromous species, for the duration of this Act, extends to such species wherever found throughout the migratory range of such species: Provided, That such responsibility and authority shall not extend to such species to the extent found within the territorial waters or contiguous fishery zone of any other nation.

(c) GENERAL.—The United States shall manage and conserve, and have preferential rights to, fish within the contiguous fishery zone, and with respect to anadromous species of fish, pursuant to the responsibility and authority

vested in it pursuant to this section, subject to traditional foreign fishing rights as defined and recognized in accordance with section 5 of this Act.

(d) REGULATIONS.—The Secretary is authorized to promulgate such regulations in accordance with section 553 of title 5, United States Code, as are necessary to implement the purposes of this Act. The Secretary is further authorized to amend such regulations in the manner originally promulgated.

FOREIGN FISHING RIGHTS

SEC. 5. (a) GENERAL.—The Secretary and the Secretary of State, after consultation with the Secretary of the Treasury, may authorize fishing within the contiguous fishery zone of the United States, or for anadromous species or both, by citizens of any foreign nation, in accordance with this section, only if such nation has traditionally engaged in such fishing prior to the date of enactment of this Act.

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

(c) RECIPROCITY.—Traditional foreign fishing rights shall not be recognized pursuant to this section unless any foreign nation claiming such rights demonstrates that it grants similar traditional fishing rights to citizens of the United States within the contiguous fishery zone of such nation, if any exist, or with resepct to anadromous species which spawn in the fresh or estuarine waters of such nations.

(d) PROCEDURES.—(1) In determining the allowable level of foreign fishing with respect to any stock, the Secretary shall utilize the best available scientific information, including, but not limited to, catch and effort statistics and relevant available data compiled by any foreign nation claiming traditional fishing rights.

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

(e) PROHIBITION.—Except as provided in this Act, it shall be unlawful for any person not a citizen of the United

States to own or operate a fishing vessel or fishing support vessel engaged in fishing in the contiguous fishery zone of the United States or for anadromous species of fish.

MARINE FISHERIES MANAGEMENT AND CONSERVATION PLANNING

SEC. 6. (a) OBJECTIVES.—It is the intent of the Congress that the following objectives be considered and included (to the extent practicable) in plans, programs, and standards for the management and conservation of marine fisheries; (1) evaluation of actual and foreseeable costs and benefits attributable thereto; (2) enhancement of total national and world food supply; (3) improvement of the economic well-being of fishermen; (4) maximum feasible utilization of methods, practices, and techniques that are optimal in terms of efficiency, protection of the ecosystem of which fish are a part, and conservation of stocks and species; and (5) effectuation of the purposes stated in section 2(b)(4) of this Act. Due consideration shall be given to alternative methods for achieving these objectives.

(b) FISHERIES MANAGEMENT COUNCIL.—There is established a Fisheries Management Council (hereinafter referred to as the "Council"). The Council shall consist of 11 individual members, as follows:

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

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

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

(A) three to be selected from a list of qualified individuals recommended by each of the regional fisheries commissions or their successors, one of whom shall be a representative respectively of Atlantic, Pacific, and Gulf of Mexico commercial fishing efforts; and

(B) four to be selected from a list of qualified individuals recommended by the National Governors Conference, at least one of whom shall be a representative of a coastal State.

As used in this paragraph, a list of qualified individuals shall consist of not less than three individuals for each Council member to be appointed.

As used in this subsection, "qualified individual" means an individual who is distinguished for his knowledge and experience in fisheries management and conservation, and who is equipped by experience, known talents, and interests to further the policy of this Act effec-

tively, positively, and independently if appointed to be a member of the Board. The terms of office of the nongovernment members of the Council first taking office shall expire as designated by the President at the time of nomination—two at the end of the first year; two at the end of the second year; and three at the end of the third year. The term of office of the Chairman of the Council shall be 3 years. Successors to members of the Council shall be appointed in the same manner as the original members and, except in the case of Government members, shall have terms of office expiring 3 years from the date of expiration of the terms for which their predecessors were appointed. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

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

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

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

(3) adopt, amend, and repeal such rules and regulations governing the operation of the Council and as are necessary to carry out the authority granted under this section; conduct its affairs, carry on opera-

tions, and maintain offices; appoint, fix the compensation, and assign the duties of such experts, agents, consultants, and other full- and part-time employee as it deems necessary or appropriate;

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

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

(6) prepare a survey of fisheries subject to the emergency conservation and management authority granted to the United States by this Act, including, but not limited to, depleted stocks and stocks threatened with depletion; and

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

(d) REVIEW BY CONGRESS.—The Council shall submit the marine fisheries management plan adopted by the Council to the Senate Committee on Commerce and the Committee on Merchant Marine and Fisheries of the House of Representatives not later than 2 years after the date of enactment of this Act. The marine fisheries management plan shall be deemed approved at the end of the first period of 180 calendar days of continuous session of Congress after such date of transmittal unless the House of Representatives and the Senate pass resolution in substantially the same form stating that the marine fisheries management plan is not favored. If the House and the Senate pass resolutions of disapproval under this subsection, the Council shall prepare, determine, and adopt a revised plan. Each such revised plan shall be submitted to Congress for review pursuant to this subsection. For purposes of this section (1) continuity of session of Congress is broken only by an adjournment sine die; and (2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 180-day period.

(e) MISCELLANEOUS.—(1) The marine fisheries management plan which is adopted by the Council and which becomes effective after review by the Congress is not subject to review by any court.

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

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

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

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

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

INTERNATIONAL FISHERY AGREEMENTS

SEC. 7. (a) GENERAL.—The Secretary of State, upon the request of and in cooperation with the Secretary, shall initiate and conduct negotiations with any foreign nation which is engaged in, or whose citizens are engaged in, fishing in the contiguous fishery zone of the United States or for anadromous species. The Secretary of State, upon the request of and in cooperation with the Secretary, shall, in addition, initiate and conduct negotiations with any foreign nation in whose contiguous fishery zone or equivalent economic zone citizens of the United States are engaged in fishing or with respect to anadromous species as to which such nation asserts management responsibility and authority and for which citizens of the United States fish. The purpose of such negotiations shall be to enter into international fishery agreements on a bilateral or multilateral basis to effectuate the purposes, policy, and provisions of this Act. Such agreements may include, but need not be limited to, agreements to provide for the management and conservation of—

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

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

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

(4) coastal species, which are found in areas subject to the fishery management responsibility and authority of any foreign nation, through measures which allow citizens of the United States to harvest an appropriate portion of such species in accordance with traditional United States fishing rights in such areas.

(b) REVIEW.—The Secretary of State shall review, in cooperation with the Secretary, each treaty, convention, and other international fishery agreements to which the United States is party to determine whether the provisions of such agreements are consistent with the purposes, policy, and provisions of this Act. If any provision or terms of any such agreement are not so consistent, the Secretary of State shall initiate negotiations to amend such agreement: Provided, That nothing in this Act shall be construed to abrogate any duty or responsibility of the United States under any lawful treaty, convention, or other international agreement which is in effect on the date of enactment of this Act.

(c) BOUNDARIES AGREEMENT.—The Secretary of State

is authorized and directed to initiate and conduct negotiations with adjacent foreign nations to establish the boundaries of the contiguous fishery zone of the United States in relation to any such nation.

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

RELATIONSHIP TO STATE LAWS

SEC. 8. Nothing in this Act shall be construed to extend the jurisdiction of any State over any natural resources beneath and in the waters beyond the territorial sea of the United States, or to diminish the jurisdiction of any State over any natural resource beneath and in the waters within the territorial sea of the United States.

PROHIBITED ACTS AND PENALTIES

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

(1) violate any provision of this Act, or any regulation issued under this Act, regarding fishery within the contiguous fishery zone or with respect to anadromous species;

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

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

(4) violate any duly issued regulation under this Act with respect to making, keeping, submitting, or furnishing to the Secretary any records, reports, or other information;

(5) refuse to permit a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, to board a fishing vessel or fishing-support vessel subject to his control where the purpose of such requested board-

ing is to inspect the catch, fishing gear, ship's log, or other records or materials; or

(6) fail to cooperate with a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, engaged in a reasonable inspection pursuant to paragraph (5) of this subsection, or to resist any lawful arrest.

(b) CIVIL PENALTIES.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by subsection (a) of this section, shall be liable to the United States for a civil forfeiture in accordance with subsection (d) of this section and for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each day of each violation. The amount of such civil penalty shall be assessed by the Secretary, or his delegate, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person who is found to have committed a prohibited act and against whom a civil penalty is assessed under

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paragraph (1) of this subsection may obtain review in the appropriate court of appeals of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence, as provided by section 706(2)(e) of title 5, United States Code.

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

(4) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection.

(c) CRIMINAL PENALTIES.—Any person who willfully

commits an act prohibited by subsection (a) of this section shall, upon conviction, be fined not more than $50,000 or imprisoned for no more than 1 year, or both.

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

(2) If a judgment is entered under this subsection for the United States, the Attorney General is authorized to seize all property or other interest declared forfeited upon such terms and conditions as are in the interest of justice. All provisions of law relating to the disposition of forfeited property, the proceeds from the sale of such property, the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informants with respect to forfeitures shall apply to civil forfeitures incurred, or alleged to have been incurred, under this subsection, insofar as applicable and

not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired by activity in violation of any provision of subsection (a) of this section by such officers or other persons as may be designated for that purpose by the Secretary of the department in which the Coast Guard is operating.

ENFORCEMENT

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

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

(1) board and inspect any fishing vessel or fishing-support vessel which is within the contiguous fishery zone of the United States, or which he has reason to believe is fishing for anadromous species;

(2) arrest any person, with or without a warrant if he has reasonable cause to believe that such person

has committed an act prohibited by section 9(a) of this Act;

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

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

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

DURATION OF ACT

SEC. 11. (a) EFFECTIVE DATE.—The provisions of section 4 of this Act shall become effective 90 days after the date of enactment of this Act. All other provisions of this Act shall become effective on the date of enactment.

(b) TERMINATION DATE.—The provisions of this Act shall expire and cease to be of any legal force and effect on

such date as the Law of the Sea Treaty, or other comprehensive treaty with respect to fishery jurisdiction, which the United States has signed or is party to, shall come into force or is provisionally applied.

AUTHORIZATION FOR APPROPRIATIONS

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

Amend the title so as to read: "A bill to extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish from depletion, and for other purposes.

STATEMENT OF GEN. GEORGE S. BROWN, U.S. AIR FORCE, CHAIRMAN, JOINT CHIEFS OF STAFF, ACCOMPANIED BY REAR ADM. MAX K. MORRIS, U.S. NAVY, JOINT CHIEFS REPRESENTATIVE TO THE LAW OF THE SEA CONFERENCE

General BROWN. Mr. Chairman and Senator Thurmond, I appreciate the opportunity to appear before this committee to present our assessment of the impact that passage of the Emergency Marine Fisheries Protection Act of 1974 would have on the security of the United States.

First, I assure the committee that the Department of Defense is well aware of the difficulties being experienced by our coastal fishermen. A solution to these problems must be found. Any such solution, however, must be compatible with our national security interests. I am convinced that passage of this legislation at this time would be counter to the security interests of the United States.

The major U.S. military interests in the seas is maximum mobility for our operations free of interference by others. The United States—like virtually all of the major powers that have preceded it in history—has fundamental high seas interests integrally related to its major power responsibilities and its security.

The mobility of our strategic and general purpose forces becomes a more important factor in our security as the presence of our forces—both strategic and general purpose—on foreign territory is reduced. Worldwide commitments and long lines of communications place additional emphasis on mobility requirements. Furthermore, the ability of our deterrent forces to carry out their mission cannot be dependent on the sufferance of other nations who may perceive their interests as different from ours.

In regard to our strategic forces, they must be numerous enough, efficient enough, and deployed in such a way that a potential aggressor will always know that the sure result of any type of nuclear attack against the United States is unacceptable damage from our retaliation. Furthermore, these forces are essential to the maintenance of a stable political environment within which the threat of aggression or coercion against the United States or its allies is minimized.

Thus, the survivability of our strategic forces is essential to the protection of our vital interests. As an indispensable element of our strategic forces, the United States seaborne nuclear deterrent is dependent not only upon freedom of mobility in the oceans and through certain international straits but upon secrecy. In the territorial sea, submarines are required to navigate on the surface. In the absence of free passage through straits, an extension of the territorial sea from 3 to 12 miles would force us, as to many straits used for international navigation, including Gibraltar, to attempt to strike the best possible bilateral bargain for consent to transit submerged. The cost of this consent may be expected to increase with the magnitude of the known U.S. interest involved.

Our general purpose forces now play a larger role in deterring attacks than at any time since the nuclear era began. Like our strategic seaborne forces, our general purpose naval and air forces depend upon the maximum mobility for their operations, free of interference by

others. This mobility will be particularly important to our ability to deter or respond to localized aggression during a period of decreasing overseas presence. Our mobility currently depends upon freedom to navigate on and under the high seas and through certain international straits and freedom to fly over the high seas and certain international straits. Authority for coastal States to regulate these activities degrades our mobility and threatens the peace.

Our antisubmarine warfare operations involve surface and air units that cannot conduct such operations in foreign territorial seas without consent. As such operations can be easily observed, our ability to track Soviet submarines that entered foreign territorial seas submerged—legally or illegally—would be diminished as the territorial sea is extended farther seaward.

With this background, it is now appropriate to assess the impact of the pending legislation on these interests.

The Convention on the High Seas of 1958 specifically lists four high seas freedoms which are recognized by the general principles of international law. They are: (1) freedom of navigation, (2) freedom of fishing, (3) freedom to lay submarine cables and pipelines, and (4) freedom to fly over the high seas. The United States and 52 other nations are parties to this Convention.

The proposed legislation would unilaterally abrogate freedom of fishing, one of the constituent elements of the overall freedom of the high seas. The response of other nations to this legislation is not likely to be limited to comparable restrictions on fishing. If the United States, by unilateral act, abrogates one identified freedom, we face the unhappy prospect that other nations may claim the right unilaterally to abrogate other identified freedoms, including the essential freedoms of navigation and overflight.

In response, many nations will surely claim 200-mile exclusive fishing zones. Some will claim 200-mile pollution control zones. Some will claim the right throughout such areas to promulgate and endorse restrictive regulations of various sorts against vessels bearing vital energy supplies to our shores. Some will attempt to prohibit nuclear-powered vessels, or vessels and aircraft carrying strategic weapons from venturing within 200 miles of their coast. Some will even claim a 200-mile zone of sovereignty, thereby completely barring our aircraft and submerged submarines from their claimed zone. This is the history of the growth of such claims. Prior to our claim of a 12-nautical mile fishing limit, there were only 25 claims to a territorial sea of 12 nautical miles or more. There are now over 80 such claims.

The effect of a 200-mile territorial sea extending off the coasts of many nations in the world would be devastating to military mobility. It would result in the prohibition of overflight by aircraft and submerged operation of submarines except at the sufferance of a coastal state in almost 40 percent of what is now internationally recognized as high seas. The entire Mediterranean would be territorial seas of the littoral states and could be closed completely to the United States. Virtually the entire operating area of both the 7th and 6th Fleets would become territorial sea. An unconstrained extension to even 12 miles would close the Straits of Bab El Mandeb, Dover, Gibraltar, Hormuz, and Lombok. Virtually every passage now narrow enough to be called a strait would be closed by 200 miles.

How will we respond to such claims, Mr. Chairman? We have consistently maintained that no nation may unilaterally abrogate high seas freedoms— that only through multilateral negotiation can the necessary adjustments in coastal state jurisdiction be properly accommodated with the common interest of mankind as a whole. What will be our response after we, too, have succumbed to the temptation of the quick unilateral solution presented in this bill?

Our experience with overflight clearances in Europe during the most recent Mideast conflict leads us to conclude that bilateral negotiations cannot be depended upon to insure that military mobility necessary to achieve U.S. foreign policy objectives. What this bill invites, then, is a situation wherein the United States must either acquiesce in serious erosion of its rights to use the world's oceans, or must be prepared to forcefully assert or purchase those rights.

Let me turn now to the events to be anticipated off our own coasts. It is highly unlikely that the major maritime powers who fish off our coast, especially Japan and the Soviet Union, would acknowledge the validity of a sweeping claim. To do so would totally undercut their own position both on fisheries in general and in the law of the sea negotiations in particular. We must, therefore, assume that such vessels would not seek our permission to fish within 200 miles of our coasts and that they would continue to do so. Enforcement of the act would involve boarding, inspection, arrest, and seizure. I cannot predict with certainty how they would react to such enforcement measures by the United States.

I can, however, clearly point to the history of the last year in which the United Kingdom responded to a claim of a 50-mile fishery zone on the part of Iceland by providing warship escort for the British fishing vessels.

Our claim would be even more contentious than that which Iceland has made for two reasons. First, our claim would be more expansive— 200 miles rather than 50 miles—and, secondly, since that time the International Court of Justice has found Iceland's actions in making such a claim to be in contravention of the rights of others. Should other nations choose to follow the pattern set by the United Kingdom of providing warship escort for fishing vessels, we would be faced with a direct military confrontation which could easily spread. I am, of course, not suggesting that we would not be able to meet and defeat such a threat. I do suggest that the risk of confrontation is unwarranted.

I would now like to turn to the effects which enactment of this bill would be likely to have on our ability to achieve a law of the sea treaty. From the very beginning of the law of the sea negotiations, the United States has been the strongest advocate of the principle that international conflicts concerning uses of the ocean can only be effectively resolved through international agreement. We have invariably protested unilateral claims by other states, whether to extended territorial seas or extended jurisdiction of one type or another, such as fishing jurisdiction. Our protest notes normally stress our view that unilateral claims to extended jurisdiction during the course of negotiations can only inhibit the negotiations and decrease the likelihood of reaching agreement.

A dramatic reversal of the position from which we have been negotiating, practically on the eve of what is apparently the most crucial negotiating session, would seem to be capable of no other effect than utterly destroying our credibility, along with rendering slim or even nonexistent our ability to obtain an overall package settlement of the existing disputes concerning ocean uses.

Mr. Chairman, I believe that the best way of preserving our essential mobility is through a comprehensive law of the sea treaty which will, in settling existing and potential conflicts, reaffirm by treaty our vital rights of navigation, overflight, and unimpeded passage of international straits. The alternative would be their preservation through their continued exercise despite the denial by others of our right to do so, and the use of force, in defense of such rights, when confronted by the force of others.

In summary, Mr. Chairman, it is my earnest assessment that the interests of the United States in establishing an equitable and stable regime for the oceans which will protect all of our interests—resources as well as national security—are best served by not precipitating unilateral acts such as those which would result upon the passage of S. 1988, but rather by seeking and achieving international agreement in the law of the sea treaty.

In my judgment, enactment of the proposed legislation would seriously erode the prospect for a broadly based multilateral treaty putting to rest the wide range of increasingly contentious ocean issues. Enactment of the proposed legislation would be a dramatic and highly visible reversal of past U.S. policy. For the United States to adopt unilateralism as a viable approach to oceans policy problems at this juncture would seriously undercut the credibility of U.S. negotiators not only on the fisheries issue, but also on our basic commitment to international agreement. This unilateral action could result in an erosion of the world's perception of our other essential objectives such as unimpeded transit through and over straits, which we have identified as both cornerstones of our policy and essential elements of an acceptable solution.

If the United States now abandons its opposition to unilateral claims in the ocean, we will inevitably be faced with an increasing number of competing, retaliatory, or unrelated claims impacting adversely on national security interests.

If, as we expect, enactment of this legislation were to result in extended delay in the law of the sea negotiations, we will have reverted to the uncertain and dangerous procedure of shaping a new legal order for the world's oceans by the process of claim and counterclaim, action and reaction, which eventually would coalesce into customary international law. This is a dangerous way to regulate any relations among states. But when the claims begin to affect the mobility of our strategic and general-purpose forces, the risk involved in the process of challenge is much higher. To set the nation on this path toward resolution of oceans policy issues is, in my view, both dangerous and unwise.

Thank you, Mr. Chairman.

The CHAIRMAN. We have with us also Mr. John Norton Moore, Chairman of the National Security Council Interagency Task Force on the Law of the Sea, Department of State.

Mr. Moore, we are glad to have you here, sir. You come well recommended I see, not only from your Department, but your background here. You have a prepared statement, and would you like to read it now?

STATEMENT OF JOHN NORTON MOORE, CHAIRMAN, THE NATIONAL SECURITY COUNCIL INTERAGENCY TASK FORCE ON THE LAW OF THE SEA, AND DEPUTY SPECIAL REPRESENTATIVE OF THE PRESIDENT FOR THE LAW OF THE SEA CONFERENCE

Mr. MOORE. Thank you Mr. Chairman, Senator Thurmond, Senator Taft, Senator McIntyre, and Senator Byrd, the Senator from my own home State. I welcome this opportunity to appear before this committee to testify on S. 1988 for the executive branch, a bill of fundamental importance to U.S. ocean policy. I have a prepared statement, but with your permission, Mr. Chairman, rather than reading the statement I would like to place the statement in the record, and to more informally summarize the issues raised by the bill.

The CHAIRMAN. Without objection the statement will be placed in the record.

[The statement follows:]

Mr. Chairman: I welcome this opportunity to appear before the Senate Armed Services Committee to testify for the Executive Branch on S. 1988 a bill of fundamental importance for United States oceans policy. This bill raises questions deeply affecting the defense interests of the nation as well as our fishery and other oceans interests. In fact, the choice which must be made by this Committee could well determine whether the United States will continue to enjoy the mobility on the world's oceans so vital to our security and energy needs.

In testifying in opposition to S. 1988, the Executive Branch is appreciative that this legislation is motivated by serious concern about overfishing by foreign fleets of certain stocks of coastal and anadromous fish off our coasts. The threat to these stocks is real and must be met by effective action. Nevertheless, enactment of this legislation would be seriously harmful to United States defense and other oceans interests and would not satisfactorily resolve our fisheries problems.

The United States, and indeed all nations, have vital defense and security interests in the oceans. These include unimpeded transit through, over and under straits used for international navigation, and protection of navigational freedoms throughout the world's oceans. Such mobility is vital to maintain secure lines of supply for energy and material needs, to provide mutual defense assistance pursuant to the Charter of the United Nations, and to contribute to the balance necessary for international stability. All nations also have an important security interest in promoting a stable legal order which will minimize the oceans as a source of conflict.

Unilateral action extending national jurisdiction in the oceans is harmful to overall United States oceans interests and particularly to these defense interests. As such, we have consistently protested to other nations any extension of fishery or other jurisdiction beyond recognized limits. A unilateral extension of jurisdiction for one purpose will not necessarily be met by a similar extension but rather may encourage broader claims which could have serious implications, for example, with respect to our energy needs in the movement of oil, our national security interests in unimpeded movement of vessels and aircraft on the worlds oceans, or our interest in the protection of marine scientific research rights in the oceans. Because of our broad range of oceans interests and our leadership role in the world, a unilateral claim by the United States would have a particularly severe impact upon the international community which could quickly lead to a crazy quilt of uncontrolled national claims. Indeed, it was the threat of just such a result with its open ended invitation to conflicts and pressures on vital United States interests that led

to a decision in two prior Administrations at the highest level of Government that United States oceans interests and the stability of the world community would best be served by a broadly supported international agreement. This Administration strongly agrees with that judgment.

Soundings from our embassies and at the Caracas session of the Law of the Sea Conference indicate that the possibility of unilateral claims by others is not merely an abstract concern should this legislation pass. Specifically, should the United States make a broad unilateral claim to fisheries, as does S. 1988, such a claim is highly likely to trigger unilateral oceans claims by others to an extended territorial sea or other claims seriously harmful to our vital interests in both military and commercial navigation. Should such a pattern become the norm, navigational freedom could be lost in vast areas of the world's oceans. A 200 mile territorial sea, for example, would totally close the Mediterranean. It would also effectively deprive a majority of all coastal states of the rights of unimpeded access they now enjoy to the oceans.

Enactment of S. 1988 could also be seriously damaging to the security interests of the United States and all nations in its destabilizing effect and its potential for promoting conflict. Unilateral extension of our fisheries jurisdiction could place the nation in a confrontation with the Soviet Union, Japan, or other nations fishing off our coasts. These nations strongly maintain the right to fish in high seas areas and are unlikely to acquiesce in unilateral claims, particularly during the course of sensitive law of the sea negotiations in which they have substantial interests at stake. The implications for detente and our relations with Japan are evident. In fact, both the Soviet Union and Japan have already expressed serious concern over this bill.

It is strongly in the interest of national and global security to encourage cooperative solutions to oceans problems rather than a pattern of competing national claims. A widely agreed comprehensive Law of the Sea Treaty will promote development of ocean uses and will reduce the chances of ocean disputes leading to conflict among nations. On the other hand, unilateral claims can only precipitate a downward spiral leading inevitably to increased conflict for the world's oceans.

Finally, passage at this time of S. 1988 unilaterally extending the fisheries jurisdiction of the United States would seriously undercut the ongoing effort of all nations to achieve a comprehensive oceans law treaty. The third United Nations Conference on the Law of the Sea held its first substantive session in Caracas, Venezuela, this summer. A second substantive session has been set for March 17 to May 10 in Geneva. This Conference is of fundamental importance for the defense and security interests of the United States and indeed of all nations. Only by agreement can we assure a rational order for the oceans which will protect the strong common interests in navigational freedoms and reduce the potential for conflict. For these reasons, our nation has urged particular care and restraint in avoiding new oceans claims during the Conference. A pattern of escalating unilateral claims during the Conference could destroy the delicate fabric of this most promising and difficult negotiation. It could also undermine the essential political compromise by which all nations would agree on a single package treaty. And by unilaterally taking such action which we have said must be dependent on a satisfactory overall compromise, including guarantees for unimpeded transit of straits, it could seriously harm our defense as well as our other oceans interests. Appended to this testimony is a statement by Ambassador John R. Stevenson, the Special Representative of the President, reporting to the Foreign Relations Committee on the progress made at the Caracas session of the Law of the Sea Conference.

Mr. Chairman, these principal difficulties with S. 1988 are in no sense alleviated by its emergency or interim nature. Section 11 (b) of S. 1988 provides that the act would expire on such date as the Law of the Sea Treaty comes into force or is provisionally applied. Unfortunately, however, in the interim period the legislation would be simply a unilateral extension with all of the associated costs of unilateralism and with none of the benefits of a lasting solution. Moreover, this legislation could well prevent the agreement which is expected to supersede it.

Just as is true for our defense interests, our fishery interests can only be satisfactorily protected by a broadly based international agreement. Fortunately, for the first time in the history of oceans law it is realistic to expect such a broadly based agreement in the near future. The strong trend in the Conference

is for acceptance of a 200-mile economic zone providing coastal states with jurisdiction over coastal fisheries in a 200-mile area off their coast. There is also support for host state control of anadromous species and for special provisions on international and regional management of highly migratory species. In this connection, the United States Delegation has indicated that we can accept and indeed would welcome agreement on the 200-mile economic zone as part of a satisfactory overall treaty which also protects our other oceans interests, including unimpeded transit of straits used for international navigation.

It is, of course, important that we prevent further depletion of coastal and anadromous stocks off our coasts before the new Law of the Sea Treaty comes into force. We have recently announced in testimony before the Senate Foreign Relations Committee and the House Merchant Marine and Fisheries Committee new steps which we will be taking to protect these stocks in the interim period. We intend to vigorously pursue these and other measures for the protection of our stocks, including diplomatic initiatives at the highest levels with the principal nations fishing off our coasts. We also intend to consult closely with the relevant Committees of Congress as to other measures, including appropriate legislative measures, which might be taken to provide additional interim protection for these threatened stocks. We must not, however, risk by our unilateral action the best opportunity we have had to resolve our fishery and other oceans problems.

Mr. Chairman, we have reached a rare and perhaps fleeting moment in history when there is opportunity for all nations to agree on a comprehensive legal regime for over two-thirds of the earth's surface. Such an agreement will lead to a stability and security for all nations which cannot be otherwise achieved. The greatest single threat to such an agreement is the pressure for unilateral action to cope with the growing problems and opportunities in oceans use. To avoid such pressures overtaking our ability to reach agreement it is essential that all nations work vigorously to achieve agreement on the timetable set out by the General Assembly, that is agreement no later than 1975. For our part we will need the full support of the Congress in this effort.

Thank you, Mr. Chairman.

Mr. MOORE. S. 1988 would unilaterally extend the fisheries contiguous zone of the United States from the present 12-mile limit to 200 miles. Though this bill is aimed primarily at fishing problems, such a unilateral extension would have the most serious consequences for the defense and security interests of the Nation, as well as our fishery and other ocean interests.

Mr. Chairman, the choice which must be made by this committee could well determine whether our Nation will continue to enjoy the mobility on the world's oceans so vital to our security and energy needs.

In testifying in opposition to S. 1988, the executive branch is appreciative that this legislation is motivated by serious concern about overfishing by foreign fleets of certain stocks of coastal and anadromous fish off our coasts. The threat to these stocks is real and must be met by effective action.

Nevertheless, the enactment of this legislation would not satisfactorily resolve our fisheries problems, and would be seriously harmful to our defense and oceans interest in at least four principal ways.

First, unilateral action extending national jurisdiction in the oceans is harmful to overall U.S. ocean interests, and particularly to our defense interests in the protection of navigation through straits, and throughout the world oceans. Unilateralism by the United States, even if carefully limited on our part, will lead to unilateralism by other states. The United States is looked to, particularly for the lead in oceans policy, and our example will have great impact on others. Such claims by others could be a 200-mile territorial sea, or they could be other actions seriously harmful to our defense interests.

The threat of expansion of the territorial sea or some other unilateral extension of national jurisdiction in the oceans is not merely by a fanciful threat if we take unilateral action to extend our fisheries jurisdiction. The risk is high that a pattern of unilateral extension of jurisdiction would lead through time to a 200-mile territorial sea or other unacceptable restrictions on navigation.

Mr. Chairman, I would like to illustrate, if I might, some of the consequences for our navigational interests of a 200-mile territorial sea around the world. We have a chart of the 200-mile territorial sea and what its effects would be. The area in pink on this chart indicates the areas of the world's oceans that would be overlapped by a 200-mile territorial sea. As General Brown has indicated, more than a third of the world's oceans would be lost to overflight and to submerged transit and there might be, in fact, even greater restrictions placed on transit. As you can see the Mediterranean would also be totally overlapped by such an extensive claim.

In addition, the principal straits and navigational routes throughout the world would all be substantially impeded.

Second, we have a chart of the zone-locked states.

The CHAIRMAN. Pardon me. Point out the Mediterranean there.

Mr. MOORE. This area, the Mediterranean, would be totally overlapped by these 200-mile claims.

The next chart that we have had prepared by the geographer of the Department of State is a chart which illustrates the effect of a 200-mile territorial sea or other 200-mile navigational restriction on coastal states. Now, this is what we call the zone-locked situation; that is, that strangely enough, under a 200-mile territorial sea or other 200-mile limit restricting navigational freedom, a majority of all coastal states would lose all access by overflight or submerged transit to any ocean on which they face, so that every country on this map which is underlined with a broad black line, and there are about 66 of these, would lose overflight rights to the high seas, and the right of submerged transit from their nation to the high seas, and of course, with corresponding restrictions on others that may have a special relation to those countries.

Second, Mr. Chairman, it is precisely because of these dangers of unilateralism leading to severe restrictions on navigation that we have sought a comprehensive oceans law treaty. The third United Nations Conference on the Law of the Sea has held one substantive meeting and has scheduled a second meeting for Geneva next spring from March 17 to May 10. We believe that the Conference is promising, and that a satisfactory conclusion can provide the kind of protection which we must have for our defense and security interests.

The demonstration of unilaterial action contained in this bill, coming at this time during the Conference, could well undermine our bargaining leverage and could, in fact, even lead to failure of the Conference. All of us understand that once broad claims are made, whether they are ocean claims or some other claim, it is particularly difficult to walk the cat back. So that there would be a loss of negotiating flexibility on the part of the countries with whom we deal. Such a unilaterial extension at this time could also undermine the essential political compromise of a single package treaty necessary to

protect our navigational and defense interests. Were all nations, for example, to feel free to simply extend their jurisdiction unilaterally and achieve their principal aim in the ocean, they may have less concern with the broader community freedom particularly community freedoms in navigation.

Moreover, such an action at this time could undermine the will to agree at the Conference itself, and the will to make the hard choices that are necessary if nations are to reach a timely agreement.

Third, Mr. Chairman, enactment of S. 1988 could also be seriously damaging to our security interests by increasing the risk of conflict in the oceans. General Brown has indicated very well the potential for serious conflict with the major distant water fishing nations fishing off the coast of the United States, including the Soviet Union, Japan, and a number of close allies of the United States. Mr. Chairman, though I will not repeat the testimony of General Brown on this point, I would like to emphasize that it is very much the judgment of the Department of State and of the National Security Council Interagency Task Force on the Law of the Sea that these risks of potential conflict off our coasts, should such legislation be enacted, the risk of damage to détente with the Soviet Union, the risk of damage in our bilateral relations with Japan and a number of other countries fishing off our coasts are real and serious.

Finally, Mr. Chairman, S. 1988 is not consistent with international law, particularly with the High Seas Convention. The United States has consistently protested extension of fishery jurisdiction beyond 12 miles, and in two cases recently arising from the cod war, the International Court of Justice has held that even the most modest extension of 50 miles by Iceland violated the legal rights of the United Kingdom and the Federal Republic of Germany.

The United States has a genuine security interest in fostering a rational and stable legal order which would serve to reduce conflict. Actions counter to such a legal order would be damaging to this interest.

Mr. Chairman, we understand fully that this legislation is introduced to meet a real threat to coastal and anadromous stocks off our coasts. Nevertheless, for the first time in the history of ocean law, we have a realistic opportunity in the near future to conclude a comprehensive ocean law treaty that will give us the kind of jurisdiction accepted by others, which will enable us to protect these coastal and anadromous species.

In the interim period, the executive branch does plan to take vigorous interim measures for the protection of our fish stocks, and in our testimony before the Senate Foreign Relations Committee, and more recently in a briefing before the House Merchant Marine and Fisheries Committee we have gone into detail on the measures which we will be taking.

In addition, we are willing to actively work with Congress to explore alternative interim approaches which would be consistent with international law and our interests in the Law of the Sea Conference, but could offer substantial increased protection to our fishery stocks.

In conclusion, Mr. Chairman, at the present time we have a rare and perhaps fleeting opportunity to achieve a comprehensive oceans

law treaty which will be strongly in the overall interest of the United States. We feel that perhaps the greatest single threat to such a comprehensive treaty is the pressure for unilateral action, both in the United States and abroad to cope with the growing problems and opportunities in ocean use. To avoid such pressures overtaking our ability to reach agreement, it is essential that all nations work vigorously to achieve agreement on the timetable set out by the General Assembly; that is, agreement no later than 1975. For our part, we will need the full support of the Congress in this effort.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Moore, you say you propose vigorous action now by the executive branch as shown by the testimony before the Senate Foreign Relations Committee and one of the House committees, too. Does that testimony carry the details of this vigorous action you referred to?

Mr. MOORE. Yes, Mr. Chairman. In fact, if I could briefly summarize?

The CHAIRMAN. That is my request to briefly give us the highlights. We are going to ask that that testimony be brought over if it is available from the committees.

Mr. MOORE. Thank you, Mr. Chairman.

First, we are working to achieve increased protection through bilateral fishery agreements and limited multilaterial fishery agreements with the Soviet Union, Japan and the states who are members of the International Commission for North Atlantic Fisheries, and through the other fishery agreements that we have for the protection of the stocks of our coasts. These agreements have in the past not given us all of the protection that we have needed, but we are working vigorously to get greater protection in the new round of negotiations on these agreements.

In addition, we have recently announced a new and substantially tougher enforcement program for the protection of our continental shelf living resources that are clearly under our jurisdiction under international law. These new measures will go into effect on December 5 of this year, after a 90-day grace period which will enable the foreign nations to adjust their fishing techniques or to enter into agreements with the United States for the protection of these continental shelf resources.

We have further proposed in the Law of the Sea Conference the provisional application of the fisheries portion of the treaty. There has been substantial support for the concept of provisional application, and it would mean that if adopted by the Conference we would not have to wait for an extended period for the treaty to go into full legal effect, but the fishery portion could go into effect on signature without delay.

We are also taking actions to raise these serious fishery problems at the highest levels of government with the principal nations that are fishing off our coast.

Finally, we are pursuing conversations with the appropriate committees of the Congress, of both the Senate and the House, to see if we can find some other interim measures which would protect our fishery interests without the adverse consequences that we see in S. 1988.

The CHAIRMAN. Is the military cooperating with you in this effort to get something done about this?

Mr. MOORE. Very much so. There is complete cooperation. In fact, I think there is a complete consistency of interest in our defense and fishery interests on this issue.

The CHAIRMAN. There is no effort being made by the military to block your efforts in representing the fishing industry and others that are involved in related fields, is that right?

Mr. MOORE. That is absolutely correct. I am glad to say this is not in any sense a tradeoff between these interests. We believe passage of this bill would be harmful to our fisheries as well as to our defense interests.

The CHAIRMAN. You have followed the testimony all the way through in these other hearings on this bill.

Mr. MOORE. That is correct. Yes I have. I have not personally listened to all the testimony, but I have followed it.

The CHAIRMAN. You have followed it. I am not anticipating the testimony here of the fisheries, I do not know what they are going to say, but how do they answer what you say, what is their main contention? We will hear from them if they want to be heard, but what is their main position about this?

Mr. MOORE. There is, of course, a real threat to our coastal and anadromous stocks off our coast from heavy foreign fishing. We do need effective solutions to that threat. It is understandable why after 3 years of preparatory work some are getting impatient about achieving the new Law of the Sea Treaty. But, we have only had a single substantive session of the Conference itself. The preparatory work was in the United Nations Seabed Committee. The time is now, this is the critical year when we are trying to reach agreement in the Law of the Sea Conference, and we feel the best way to protect all of those interests is by such a treaty.

The CHAIRMAN. If you do not get such a treaty, and I do not want to discount your prospects, how are you going to protect the situation as to our fishing industry?

Mr. MOORE. Mr. Chairman. I am happy to say that I am optimistic about the chances for concluding such a treaty in a short timeframe. I would rather not speculate at this point on what actions the administration might propose for the protection of those stocks if, in fact, we were not able to reach a timely agreement.

The CHAIRMAN. I do not want to discount the prosects, but there is a lot of membership in the Senate that come from these seacoast States, and incidentally, I do. I hear from them down there. I want to know what the problem is, I want to get that from them, and then what the remedy is from you. If this bill is not the remedy, what is the remedy?

Mr. MOORE. I think there are several remedies.

The CHAIRMAN. I am going to call on someone in the administration to point out an alternative here. You are asking us to hold this bill up a year. That is the substance of your testimony in a way, so where will we be then if you do not get the agreement?

Mr. MOORE. I think you are exactly right, to focus on the need to have effective action that is going to resolve our fishery problems. We share that fully. We think that there are two principal kinds of action

that we need to take. The first of these really is to focus on trying to get this comprehensive treaty, because one thing is very clear, that if the other issues in the negotiations are satisfactorily resolved, there will be a 200-mile area of coastal State jurisdiction over coastal fisheries. And therefore, we do not want to do anything at this time that, in fact, really undercuts our chance to resolve these fishery problems once and for all.

Now, a second line of attack on this, and I think it is equally important, is that during the interim period between now and the time we expect this treaty to be legally in effect, either through provisional application or otherwise, we must take effective interim measures to protect those stocks. We feel that we can do that through a vigorous program of bilateral agreements and limited multilateral agreements, coupled with the new enforcement measures which we have announced on September 5, and which we feel will give us very substantial increased leverage in the fishery negotiations that we will shortly be entering.

Then in addition to that, we would also like to explore with the Congress and are doing so at the present time alternative approaches that would provide even greater interim protection during this period.

The CHAIRMAN. General Brown, you accept the compliment here I am sure that you are cooperating with the executive branch of the Government, and you are a part of it. Now just sum up here in a sentence or two what your primary objections are as a member of the military profession and a leader to the bill. They claim that it will not interfere with you, your submarines and all of the overflights and all of that.

General BROWN. Mr. Chairman, I think other countries will follow the lead of the United States. The United States is in the foremost position of world power. I think there is a vast difference in impact between what the United States does and what the Latin American Republic does. There are seven Latin American countries that have taken unilateral action purporting to extend the limits of their territorial sea to 200 miles. We are well aware of that. If the United States were to step out and unilaterally claim 200 miles, a great number of other nations would follow our lead. I think it would be a serious omission not to grant at least the year for the Law of the Seas Conference to work in the United Nations. It would be wrong.

It is true that many will challenge my statement on the basis that I foresee other nations going further than we would go. We would restrict only fishing. Our worry is not that others will restrict fisheries, it is that they will go beyond that. That is our worry.

The CHAIRMAN. And interfere with you?

General BROWN. And interfere with the security operations.

The other worry is that in enforcing this, in policing this action, the United States, first would be violating or going counter to the precedent set by the international court in a case of lesser magnitude; and second, I have little doubt that this thing will grow beyond the scope of the Coast Guard ability and that the U.S. Navy is going to have to participate in the policing of this exclusion of foreign vessels. When we go out with men of war to stop, search, and arrest, it is going to get a little risky. I think it is unnecessary to take that risk. We can

handle it—there is no question that the United States has the power—but I do not think the United States wants to seek confrontation unless it is necessary.

The CHAIRMAN. This bill has been on Capitol Hill for a long time this year, and there have been a lot of other things that have happened, including things happening to you. But why did the military wait so long to let us know about their objections to this bill? We are now just here in the closing days, and having to have these hearings hurriedly, and we had to promise to get the report back by November 15. Almost all of those days are going to be during this recess. I said we had to promise that because it was already on the calendar and about to be taken up, and one objection would have thrown it into a vote. If you do not know why, just answer it that way and let it go. But it shows the danger of neglect.

General BROWN. I think it is very simply that the executive branch acted in a very human manner. We assumed the Congress would understand. After all, the vote was by a very narrow margin; and admittedly, there was concern in the Committee on Foreign Relations, but they did report it out unfavorably. It was not until there was the swell of interest and it appeared that the Senate might act counter to the committee that we became concerned enough to directly interject ourselves. The interagency task force had expressed our concerns earlier.

The CHAIRMAN. You all have to worry about so many things, but you should not assume what we will do about things. All of us that have been up here a good while do not ever assume anything our constituents do. That is why we have been able to hang on. We did not assume anything, but we kept in touch with them.

Senator Thurmond.

Senator THURMOND. Thank you very much.

General Brown, I assume from your statement that you feel there will be retaliation, of course, by other nations if we adopted this 200-mile limit?

General BROWN. Without doubt, yes, sir.

Senator THURMOND. If there were retaliation, that would hurt the United States from a security standpoint, as I construe your statement?

General BROWN. That is our fear, yes, sir.

Senator THURMOND. Would it not also hurt the United States from a trade standpoint because the United States carries on trade with more nations in the world than any other country in the world?

General BROWN. That is also true. There are others more competent to testify on that than I. But quite obviously, that is true.

Senator THURMOND. I might ask Mr. Moore that.

Mr. MOORE. Very much so, Senator. All of our navigational interests would be major losers by any pattern of unilateral action and competing claims in the oceans and it would hurt very substantially our interests in the movement of energy supplies and all of the imports and exports that move now on the world oceans.

Senator THURMOND. General Brown, if the Law of the Sea negotiations fail to produce a treaty next year, and you refer to it in your

statement here on page 9, that provides a 200-mile economic zone, do you feel it would be advisable then to oppose this bill further?

General BROWN. I think that the United States will have to reassess the entire situation. At the moment we are optimistic that the Law of the Sea Conference is going to work. If the United States efforts toward a treaty should fail, then obviously we are going to have to take a hard look.

Senator THURMOND. You think that there would have to be a reappraisal of the whole situation?

General BROWN. Yes, sir.

Senator THURMOND. I believe you indicate that it is your assumption that the Soviet Union and Japan will probably not seek our permission to fish within 200 miles of our coast even if this bill became law; is that correct?

General BROWN. That is our assumption.

Senator THURMOND. To your knowledge, has the Government of the United States been informed either officially or unofficially that this would, in fact, be the case?

General BROWN. Not to my personal knowledge.

Senator THURMOND. Assuming that this bill, S. 1988, became law, would you expand upon the potential problems of enforcement other than what you have said, or do you think you have covered that pretty well in your statement and in your answers to questions?

General BROWN. I think there is one other point, Senator. The geography of the problem is just massive. If foreign warships enter the picture, it would overwhelm the Coast Guard's ability to adequately patrol and enforce. Therefore, I foresee the Defense Department's being called on to support the Coast Guard in its efforts.

Senator THURMOND. Regarding the right of the United States to transit certain areas of the ocean submerged, is it your interpretation that passage of this legislation could cause other countries to extend their territorial sea boundaries beyond 12 miles, thus forcing us to request transit permission?

General BROWN. That is precisely our concern. However, if we take the lead, I think it is reasonable to assume that others may expand on it. If they expand on it, other rights and freedoms of the sea will be lost.

Senator THURMOND. That might be somewhat similar to if we acknowledged Cuba, that Central and South American countries might feel like well, if the United States has acknowledged Cuba diplomatically, we might fall into line too. It is somewhat an analogous situation in a way, is it not?

General BROWN. It is indeed.

Senator THURMOND. I personally think that would be a mistake. The State Department may feel otherwise. We will not go into that, Mr. Moore, at this time.

Mr. MOORE. Thank you, Senator.

Senator THURMOND. Mr. Moore, I might ask you, do you really feel confident that the Law of the Sea Conference will produce a treaty that will provide a 200-mile economic zone for ocean areas of coastal States?

Mr. MOORE. On the one hand I do not want to underestimate the difficulties of agreement. The law of the Sea Conference is the largest conference ever held, and it has the most complex agenda of any multilateral conference. At the same time, it is our assessment that based on what we have seen in the preparatory work and the first session held at Caracas that, in fact, there is an excellent opportunity for early agreement on a comprehensive oceans law treaty.

If all of the issues at stake that must be part of the package treaty are satisfactorily resolved, there is simply no question that the treaty will include at least preferential rights over coastal fisheries out to 200 miles. There is overwhelming support in the Conference for a 200-mile economic zone. In fact, it is one of the features that makes it particularly tragic to be seeking this by unilateral action now; action which could endanger an agreement that we have in hand. The Soviet Union, for example, as part of a comprehensive satisfactory treaty will accept the 200-mile economic zone, but they will not accept it through unilateral actions.

Senator THURMOND. The Soviet Union will accept it if this treaty is adopted.

Mr. MOORE. That is correct. They have said so in the negotiations.

Senator THURMOND. Now, are the provisions of this bill, S. 1988, in general the same provisions that you are hoping to achieve in the Law of the Sea Treaty? Or is there very much variance?

Mr. MOORE. Basically S. 1988 does include the principal substance of our Law of the Sea position on fisheries, so that the major problem is not with the substance of the bill. It is with the unilateralism of the action at this time.

Senator THURMOND. I believe you wrote a letter to Senator Magnuson dated September 5 and advised that foreign governments whose vessels fished above the Continental Shelf of the United States are being notified of new guidelines for the enforcement of our rights to Continental Shelf fishery resources.

Mr. MOORE. That is correct.

Senator THURMOND. You indicated the effective date of these new procedures would be December 5.

Mr. MOORE. Yes.

Senator THURMOND. First, is December 5 still the effective date?

Mr. MOORE. Yes it is. We have notified through formal diplomatic notes all of the governments that are potentially affected and which fish off our coast.

Senator THURMOND. I have just got 1 minute now. Do you think the new guidelines will be adhered to?

Mr. MOORE. The new guidelines are going to offer substantially increased leverage for conclusion of much more satisfactory fishery bilateral and limited multilateral agreements.

Senator THURMOND. I have two or three other questions which I will ask when I come back or you can answer them for the record. Thank you very much.

Mr. MOORE. Thank you.

The CHAIRMAN. Senator McIntyre?

Senator MCINTYRE. Thank you, Mr. Chairman. I must say to the chairman that I am pleased with the tone of your questions. This

problem is not a new one, and while I do not pretend to be an expert on this bill, I do know of the very severe difficulties that our New England fishermen are having with this crude and exploitive use of our coastal waters by, as you say, our friends and allies. I can understand too, General Brown, why the Defense Department has concern here. I want to say, Mr. Chairman, I think it is primarily a problem with the Department of Commerce. You notice this bill moved out of the Commerce Committee on a 10 to 2 vote, and the Department of Commerce should be more vigorous in pressing the Department of State to move on this. My experience here has taught me that the Department of State spends all of its time being friendly with all of these countries.

Let me just ask a few questions here.

The CHAIRMAN. Senator, pardon me just a minute. How are you going to enforce these matters and so forth?

Senator MCINTYRE. Is it not true, Mr. Moore, that this bill represents very closely our position at the Caracas conference?

Mr. MOORE. The substantive aspects of the fishery provisions of the bill are very close to our position in the Conference. That is not our major problem with the bill. In one word the major problem is the "unilateralism" of this kind of oceans claim.

Senator MCINTYRE. Is it not a fact that the next meeting of this Conference will not bring, in the most optimistic viewpoint, any finalized agreements on the many differences that you have already seen displayed at the Caracas Conference?

Mr. MOORE. The next session will be held in Geneva from March 17 to May 10. We feel that if all nations approach this session with a spirit of genuine negotiation that will be necessary to reach the final agreement, that it would be possible to reach an agreement at that session. We certainly feel that it is particularly important that we adhere to the General Assembly conference resolution for conclusion of this treaty during 1975.

Senator MCINTYRE. That is a most optimistic reply, Mr. Chairman, most optimistic. I have talked to some of our colleagues who went to this conference, and they say about all that has been arrived at at the present time is the magnitude of the differences that exist, the parameters of the differences that exist between the various countries. Undoubtedly I think that I could say in counter to your response, Mr. Moore, that optimistically it will be 2, 3, or possibly even 4 years before a meaningful agreement is reached.

Let me ask you, is it not true that this bill is not an attempt for what you might call territorial exclusion; rather it is an attempt to regulate this area so that we may have some management? Is that not a correct statement about this bill? We are not trying to exclude anybody from the 200-mile limit.

Mr. MOORE. That is correct. The claim we would be making is a claim for an expanded fisheries contiguous zone, but our concern is that if the United States can make such a unilateral claim in the fisheries area that other nations can make unilateral claims in other areas, and the result will be a spiralling pattern of escalating claims for the world's oceans.

Senator McINTYRE. One thing I notice, General, in your statement which I have just heard, when you were talking about overflights, is this commercial overflight or military overflight that you make reference to?

General BROWN. No, I had reference, Senator, to military overflights.

Senator McINTYRE. It was my good fortune or misfortune to be in Ankara and Athens at the time of the Yom Kippur War, and I may say that our so-called friends of Greece and Turkey were quick to deny us rights to overflight. So the allies that take their trawlers and their factories, or their fish factories ships I guess they call them, and come down and ride right over the nets of our fishermen, they do not mind taking, but they are very reluctant to give when we need it, and a lot of us in New England are fed up. I must say that one of these days you may have a confrontation, and it will not take place in the Mediterranean, it will take place off the coast of Maine and New Hampshire. Some of our fishing boats are already armed. It might be a very, very good thing for our Navy and our Coast Guard to accompany some of our fishing vessels up there. Maybe a little show of force once in a while would not involve a confrontation that would bring us to war, but it might involve a confrontation that would cause our friends and allies to be more respectful of our rights.

I think that the enforcement provision of this, Mr. Chairman, might in the interim, while we are trying to pass this bill, might be a little display of yankee determination to keep what is ours and to be fair with others. I am not going to recite some of the exploitive tactics of the Soviets or of the West or East Germans, I believe, who are in there now. And I am not as aware of Senator Magnuson's problems as I might be, but I know that I have heard him say that the State of Washington stocks the rivers of Washington with beautiful salmon, and they float on down into the ocean where they are captured by the Japanese, and they do not get a chance to return to spawn and increase the number of fish.

The CHAIRMAN. Senator, if I may ask you a question there, why not tell us, if it is within your knowledge, reliable information, what are the practices here in these waters you are talking about, if you are prepared at all to do so? I would be very much interested. I think all of us would.

Senator McINTYRE. The practices that have occurred off the New England coast have been the Russian trawlers, fishing fleets sailing right through, without regard to the extended nets of the American fishermen, and cutting up the nets, just destroying them. Ruthless disregard for a little brotherhood, you might say. They also, of course, in their practices, as I understand it, will fish for the whole fish, and just put them into the factory vessels, and deliver them to the factory vessels which will then just chew them up and put them into protein that is essential for the people of the Soviet Union to eat to maintain their health. But in the process of doing that it is exploitive, it destroys fish. For instance, up there in New England we have lost the haddock, and as a young man working in my dad's market, I remember the haddock. It was a good fish, and it was a good eating fish, and it is gone. The haddock is gone, virtually disappeared.

Cod are not far behind. The population of herring, which are a basic plankton converter to the ocean, and the ocean economy has declined by an estimated 40 percent in the last 2 years. The 200-mile limit, as I said, does not exclude all foreign entry from coming into the management zone.

I think the referral of this bill to this committee does give the Defense Department an opportunity to state their case, but I do think that the issue before the Congress of the United States is that we have suffered for 2 years, or 3 years, while the State Department hanky-panks around. We are fed up. This is a good bill, it represents our position, and I do not know what you are talking about in this vigorous action that you are going to take. You have not taken vigorous action so far in the State Department. I would like to see a couple of our destroyers escort like I saw over in Athens out there protecting the Mediterranean. I would like to see them going up and down the Atlantic Coast, and I would like to see a little muscle, and I think the New England fishermen would like to see a little muscle too.

Détente we like and want, but to get knocked out and run over, not only by the foreign producers of oil, but by our friends, by their ruthless mining of our seas, I think this is a good bill and it should pass. I am disturbed and reluctant to agree with my good friend here, John Moore, when he says this is all going to be settled in the enforcement provisions that they now have underway, or in the future of the Caracas agreements or the Law of the Sea Conference that is forthcoming. We, in New England, are disgusted and we are ready to arm our own ships, if we cannot protect our rights.

Thank you, Mr. Chairman, for allowing me to say this.

The CHAIRMAN. Thank you, Senator, very much.

Senator Taft.

Senator TAFT. Thank you, Mr. Chairman.

Mr. Moore, if we do not pass a bill of this sort, what leverage are we going to have at the Law of the Sea Conference to get an agreement dealing with fishing rights that we are concerned with here?

Mr. MOORE. Senator Taft, I think that really highlights one of the most important points which is what is the effect on our negotiating leverage and our bargaining position of introducing or passing this legislation. I think the first thing we would have to look at is in terms of what this bill does, that is expanded coastal state fishery jurisdiction. Do we need any additional leverage in the Law of the Sea Conference. I think the answer to that is as far as the conference is concerned there is no leverage needed on this issue. There is already agreement in the conference that if all of the other issues are satisfactorily resolved, which are the really tough ones to deal with in this conference, there will be a substantial extension of coastal state jurisdiction over coastal fisheries at least out to 200 miles on a preferential rights basis.

Senator TAFT. With the conditions you have put on, it sounds like a kind of a pie-in-the-sky proposition. However, it is possible that we may be able to get an agreement in the area of fishing rights without resolving all of the other issues, because I am inclined to agree with Senator McIntyre. I think it is going to take 2 or 3, 4 years to

be very optimistic to expect that we are going to get resolution of a lot of the other questions.

Mr. MOORE. I think it would be very difficult to resolve these problems without resolving the other fundamental ocean law issues. One of the reasons for the difficult situation we are in on bilateral and limited multilateral negotiations is precisely that we do not have the kind of bargaining leverage in these contexts that will enable us to resolve that problem. We do have that leverage in the Law of the Sea Conference, because all of the coastal nations are participating. Even a nation such as the Soviet Union, fishing off our coast, has a broad range of ocean interests that are also at stake. So, when those interests are dealt with in a way which is satisfactory to them, and I am optimistic, I see those issues being resolved in a timely fashion, then we will be able to easily reach agreement on the fisheries issues.

The real negotiation on the coastal fishing issue is the question of whether it should go beyond preferential rights for the coastal States. And this, of course, gets into the necessity to protect distant water coastal fishing interests. Our shrimp fishing fleets, for example, operating out of the Gulf States that fish within 200 miles of other nations, and our tuna interests that fish within 200 miles of other nations. But I think fundamentally the dilemma that this committee and the Congress has to deal with in this legislation is that we do have a problem in fisheries, and as Senator McIntyre has said correctly, it is a serious problem in the protection of some of the stocks. Haddock is a good example. But the paradox that is by taking unilateral action now we could undercut the best opportunity our Nation has ever had to resolve these fishery problems.

Senator TAFT. Can you explain what international rights we have as to fishing beyond the 6-mile limit, or if you would like the 12-mile limit, but on the Continental Shelf? You seem to imply that there is some such superior rights in that connection.

Mr. MOORE. That is correct. There are basically three sources today, for coastal State fisheries jurisdiction. The first is a fishery continguous zone out to 12 miles in which the coastal State has jurisdiction to regulate fisheries. The second is under the 1958 Continental Shelf Convention, which has been widely adhered to and is customarily international law today, in which we have exclusive rights to the Continental Shelf living resources throughout the range of the U.S. Continental Shelf which, of course, goes very substantially beyond 12 miles. The third basis would be a bilateral or a limited multilateral agreement that the United States would have entered into with other nations relating to fishery problems off our coast.

Senator TAFT. What is the Canadian position with regard to this question? They have as substantial a stake as we if not more practically.

Mr. MOORE. That is correct. They certainly have a very substantial fisheries interest, and the Canadian position in the Law of the Sea Conference on these fisheries issues is very close to that of the United States. The Canadians, however, also, as I think is true of essentially every nation participating in this negotiation at the present time, have refrained from any unilateral action in this interim period during the continuation of the Law of the Sea Conference. Now, there are, as

General Brown has indicated, a number of States that have claimed the 200-mile territorial sea. Should the United States make any of these broader unilateral claims, the effect on the world's oceans and the pattern of unilateralism would be very substantially different than if those claims are made by some of the smaller countries that have a less broad range of ocean interests.

Senator TAFT. What is the Mexican position?

Mr. MOORE. The Mexicans also recognize the 12-mile fishery contiguous zone, as do we and the Canadians, and the Continental Shelf fishery regime. They have not made any major unilateral claims beyond that.

Senator TAFT. When you say that you are going to have to resolve the other issues before we can get the fishery issues resolved, are you talking also about all of these questions with regard to development of the mineral deposits under the seabed and so forth? We have so much apparent difference of opinion with many of the developing nations on this.

Mr. MOORE. Yes. I am talking about those interests also. In fact, one of the great dilemmas in all of oceans law, and we can see it in the First and Second U.N. Conferences on the Law of the Sea, is that it is a mistake to try to take the issues in isolation, to pick out one thing like the breadth of the territorial seas as we did at the conference in 1960. The difficulty is you cannot then functionally separate the kinds of resource jurisdiction that makes sense in coastal States from the kinds of navigational and other freedoms that ought to be protected and remain in the international community, because you are taking them one at a time. States are free to pick and choose among one treaty that satisfies them on fish, and they do not sign the treaty on straits and navigational freedom so that the only way we feel to satisfactorily resolve these problems, and the only way to get that oceans treaty really is an overall package. That makes it harder to reach agreement, that makes it more time-consuming, but we feel that we are headed toward an agreement in all of these major areas.

Senator TAFT. What is going to prevent getting around the agreement by using the flag or ships in the registry of nations that do not participate?

Mr. MOORE. To be successful, I think it has to be a treaty that is very widely adhered to including all of the major powers and a large segment of the rest of the international community. The kind of procedures that we are using in the conference are procedures that lead to that, basically consensus techniques, though again they slow things down and that is part of the reason for the difficulty. At the same time, it leads to an agreement that when you get it, really is a meaningful political agreement among these countries. Beyond that, I think it simply is a question of if the treaty is widely adhered to and becomes customary international law then, of course, our interests would be protected as a signatory to that treaty.

The reverse of the situation is the one that we are concerned about, which is that without a treaty, a pattern of unilateralism is going to through time be extremely harmful to the broad range of U.S. ocean interests, which by the way is not merely the fisheries and the defense which we have been talking about this morning, but very strongly goes to the question of our mineral resource jurisdiction over the hydro-

carbons of the continental margins of the world; it is a question of the protection of marine scientific research, the question of a good environmental and conservation regime in the world's oceans; it is a question of conflict management, of having good dispute settlement machinery for resolving ocean disputes. So that we really have a very broad range of interests that we feel can only be effectively protected by a comprehensive treaty.

Senator TAFT. It sounds very good if you can work it out, and I am sure that you are right in the desirability of working it all out. But I still get back to the original question. I am not sure we have the leverage, and I am not sure that the passage of this bill, or at least the threat of passage of it would not add to that leverage. Thank you.

The CHAIRMAN. Senator Byrd?

Senator BYRD. Nothing at the present time, Mr. Chairman.

The CHAIRMAN. Senator Nunn.

Senator NUNN. I have a few questions, Mr. Chairman.

What nations now have a 200–mile limit?

Mr. MOORE. There are seven Latin American States with the 200–mile territorial sea at the present time. These are Peru, Ecuador, Brazil, El Savadore, Panama, Uraguay, and Argentina, and one African country, Sierra Leone.

Senator NUNN. No European countries?

Mr. MOORE. That is correct.

Senator NUNN. Russia does not claim a 200–mile limit?

Mr. MOORE. No, the Soviets claim a 12-mile territorial sea.

Senator NUNN. How about Japan?

Mr. MOORE. Japan does not recognize any fishery jurisdiction beyond the 12–mile fishery contiguous zone.

Senator NUNN. What do they recognize beyond the 12 miles?

Mr. MOORE. They do recognize the mineral resource rights under the Continental Shelf Convention, but Japan is not a signatory to that convention.

Senator NUNN. What is the difference between Japan's claim of that territorial waters and the United States claim under the present law?

Mr. MOORE. We both, of course, recognize the lawfulness of the 12-mile fishery contiguous zone so we would have no difference at all on the legal aspects of how far one could unilaterally control stocks. We do have some differences with respect to the Continental Shelf Convention and living resources under that convention. But, it is our position that that convention is strongly customary international law at the present time. There is certainly no credible case today of an international legal claim to a 200-mile territorial sea, or to a 200-mile or so extended fishery contiguous zone.

Senator NUNN. General Brown, what limits does Japan put on say our attack submarines or our nuclear submarines? How close can they get to the Japanese shore?

General BROWN. Senator Nunn, we have not had any open intercourse on nuclear munitions with Japan or others. We neither confirm nor deny the presence of such weapons. Ships with nuclear propulsion do enter their waters.

Senator NUNN. What about just your normal submarine activity, non-nuclear? Can they get within 12 miles or are they——

General BROWN. We recognize Japan's concern over nuclear emissions and those matters, but nuclear propelled attack submarines make port visits to Japan.

Senator NUNN. I mean 12 miles? I am trying to define that territory. Is it 12 miles?

Mr. MOORE. I believe it is 3 miles.

General BROWN. Three miles.

Senator NUNN. General Brown, the thing I think which is your objection mainly is the limitations on our strategic forces and possible defense forces within the 200-mile limit. What objections do you have to this proposal that you would not also have to a 200-mile negotiated treaty? Would not those same objections apply to that?

General BROWN. I do not believe so, Senator Nunn. Our concern with this bill stems from the fact that the United States would do it alone. It would be a unilateral action—this is a judgment which Senator Taft may not share, according to his statement—and it would undercut the efforts of the United States to attain a treaty which would not only protect fisheries, but also the management of resources, and most importantly, the other freedoms that are normal to the oceans.

Senator NUNN. What I am saying is if there is a 200-mile limit negotiated by the treaty, has the Department of Defense got a protective position within that 200 miles on both our submarines, attack and strategic?

General BROWN. Yes, sir. The treaty we seek protects transit of straits, overflight, and the normal navigational rights that we have today.

Senator NUNN. So a treaty, if negotiated, would protect our rights in these areas, our military rights?

General BROWN. Yes, sir.

Senator NUNN. But this legislation does not protect the rights of other nations within our 200 miles?

General BROWN. It sets a unilateral example, we fear, that other nations would follow. We are not certain they would limit their actions to fishery rights only; they might include some of the other freedoms.

Senator NUNN. What about the Soviet Union under this legislation, as you interpret it? Could they have a submarine operation within 200 miles of our shore if this legislation became law?

General BROWN. This legislation would have no direct bearing on that. It would merely call on the United States to police that area out to 200 miles against people who are harvesting fish.

Senator NUNN. Just fish?

General BROWN. That is right.

Senator NUNN. So if anybody else limited our submarines, they would have to go much beyond what we are doing here in order to justify it? If they simply limited, if other nations in the world did exactly what we are doing with this legislation, it would not in any way inhibit your submarines from transit, both attack and strategic?

General BROWN. That is correct.

Senator NUNN. And your objections are based on not the legislation being enacted by other countries, but the fact that it is your fear that they will go beyond this legislation, is that right?

General BROWN. Exactly.

Senator NUNN. The seven Latin American and one or two African nations have claimed the 200 miles, is that strictly fishing, or does that also prohibit your submarine activity?

Mr. MOORE. It claims a territorial sea, which under recognized international law prohibits both overflight and submerged transit, and frankly runs the risk of a variety of other serious restrictions on transit as well.

I should add, by the way, that both the Soviets and the Japanese in the Law of the Sea negotiations have approached us about this legislation and expressed the most severe concerns about it and have indicated that they share precisely the difficulties that we have with it, that it is going to lead to the kind of unilateralism that through time would restrict the navigational freedom of the Soviet Union, Japan, and indeed all nations.

Senator NUNN. I understand that. What I want to know in simple terms is are we prohibited from having submarine activity within 200 miles of the nations that have now claimed 200 miles?

General BROWN. We are. But we are now prohibited only by nations that have no ability to police their prohibitions.

Mr. MOORE. Their claim certainly seeks to prohibit it but international law would not bear their claim out.

Senator NUNN. You do not recognize their claim?

Mr. MOORE. Exactly.

Senator NUNN. They do not have anything to knock our attack submarines out of the area?

General BROWN. Exactly, Sir; Somalia and Sierra Leone do not present any direct military threat to the United States.

The CHAIRMAN. If the Senator will yield on that, that is not a test, though.

Senator NUNN. I yield.

The CHAIRMAN. Really the power to retaliate is really not the test, is it? What you are opposed to is the fact that they have these prohibitions on our activities?

General BROWN. Exactly.

The CHAIRMAN. That you think are impractical and wrong?

General BROWN. I was being a bit facetious, but I was talking about their power to police their prohibition, not their power to otherwise retaliate against our actions.

The CHAIRMAN. Yes. The fact that they do not have that police power, still the prohibition is on you.

General BROWN. Yes, sir.

The CHAIRMAN. With moral powers and force, you cannot proceed without violating their mandate. That is right, is it not?

General BROWN. That is right. I would point out another thing, that none of these countries, except possibly Panama, have claims in areas in which we are prone to operate.

The CHAIRMAN. Senator, thank you for yielding. I had wanted to bring that out.

Senator NUNN. The question I was wondering was, if this legislation alone were enacted by other nations, it would not prohibit our submarine activities. They would have to go further than this legislation, and then they would be in the same position as the seven Latin

American nations and the two African nations which, as you said, do not have any practical effect because we do not recognize it, No. 1, and No. 2, they do not have any means of enforcement. So what I am wondering, what then is the basis of the theory? If we are going to not recognize a claim beyond this, and then, practically speaking, they do not have the means to enforce it anyway, what is that theory based upon? I can see the State Department's fear, but I am talking about yours.

General BROWN. There are other nations who would have the ability to police, and whose unilateral actions we would care about.

Senator NUNN. Do you think Japan and Russia and some of the larger nations then would go beyond this, and say, since the United States prohibits fishing within 200 miles, we are going to prohibit submarines?

General BROWN. That is a fear. Whether it is a reasonable fear is a matter of judgment.

Senator NUNN. The Soviet Union would not have any real reason to do that though because we would do the same thing, would we not?

General BROWN. We may.

Senator NUNN. I am trying to pin down the fear. This fear is basically one of assuming other nations are going to go way beyond what we are doing. The other question I had——

General BROWN. May I add another Defense Department fear you have not touched on, Senator?

Senator NUNN. Let me ask this question and I will be glad to, but I want to get this one in while I have got the time. From the State Department view, when does the Law of the Sea Treaty, when is your most optimistic estimate of when that could be completed?

Mr. MOORE. 1975. We feel it is particularly important to complete the treaty pursuant to the General Assembly schedule which calls for any subsequent session or sessions to be held next year.

Senator NUNN. Are you saying you think it can possibly be completed during that time?

Mr. MOORE. Yes, sir. It certainly can.

Senator NUNN. What if we put an effective date on this legislation of January 1, 1976, and we also say in this legistlation if a Law of the Sea Conference produces a treaty that this legislation shall be null and void. Would that obviate your fears?

Mr. MOORE. No; it would not because we feel this would have much the same effect upon the negotiations in undercutting our bargaining ability because it would be very clear to those with whom we were negotiating that we have basically put them under a unilateral threat.

Senator NUNN. That is not going to increase your bargaining position rather than diminishing it?

Mr. MOORE. No. This is the point that I think I did not make clear earlier. It is just the reverse. In the conference we have some agreement on an extension of jurisdiction over coastal stocks. That is almost universially agreed and is not a problem. The problem is in getting good guarantees in these expanded areas of resource jurisdiction for the protection of navigational freedom, for protection of our distant water fishing interests, for protection of marine scientific research, and other interests that would be very seriously damaged if we give

some states the idea that through unilateral action they can get the resource jurisdiction they want in these broad areas without the necessity to agree to the kind of limitations that will protect those interests. So in fact, S. 1988 very substantially undercuts our bargaining leverage in the negotiations.

Senator NUNN. You would rather have that effective date on the bill than not having it on there, would you not?

Mr. MOORE. If such legislation were passed, which we think would be very seriously harmful in either case, yes; it would be better to have the date than not to have the date.

Senator NUNN. You would have more leverage with the date than without?

Mr. MOORE. That is correct, but we would have a great deal more leverage still if we can pursue other ways of trying to resolve our fishery problems.

Senator NUNN. That is exactly the State Department's position when we had the Jackson-Nunn amendment which we said we were going to get when we did not get the offset, and 6 months later the State Department reversed that position and said no, it really does help us a lot.

Mr. MOORE. I can merely testify to the situation in the Law of the Sea Conference, and with respect to this issue. There is no question that this has undercut our bargaining ability very substantially in this negotiation, particularly to protect the United States defense interests.

Senator NUNN. Mr. Chairman, I would like for General Brown to get the chance to answer that second part of the question.

The CHAIRMAN. All right.

General BROWN. I would like to make one point, Mr. Chairman. Senator Nunn seemed to state—if I understood him correctly—that the Defense interests primarily stem from a fear of the spread of this unilateral action. It is not only that. It is that the Defense Department is anxiously interested in success at the Law of the Sea Conference because we want, in the national interest, the things that can be achieved by that route. So there are the two concerns.

Senator NUNN. May I ask one other question?

The CHAIRMAN. All right, Senator.

Senator NUNN. The thing that puzzles me about the defense position is about the straits and passageways, Gibraltar and all of those. I do not see how it makes any difference whether you have a 3 mile, or a 2 mile or 200 miles on those. The 200 miles, it seems to me does not affect it any more than 3 miles or 12 miles. Would you explain that? I am sure I missed it.

General BROWN. The fishing right as written in this bill would not, but if they extended it out—to be a territorial sea, in effect, we could still stay, but we could not stay submerged, not in the territorial water.

Senator NUNN. What about Bosporus?

Admiral MORRIS. Bosporus is not covered in this because it is specifically dealt with in another treaty.

Mr. MOORE. That will not be dealt with in the Law of the Sea Conference.

Senator NUNN. I am still not sure. Twelve miles which we have on the books now and 200 miles claimed, if another nation is going to do it, all of these passageways are within 12 miles of the shore, so why was 200 a problem?

General BROWN. We now have free transit—high seas freedom—through straits more than 6 nms wide.

Senator NUNN. I understand that. You say on page 2, General Brown, "In the absence of free passage through straits, an extension of the territorial sea from 3 to 12 miles would force us, as to many straits used for international navigation, including Gibraltar, to attempt to strike the best possible bilateral bargain for consent to transit submerged." I do not understand.

Now we are talking about a 200 mile fishing bill here, and you are talking about 3 to 12 miles, and all of these, all of the passageways are within 3 miles of shore. So I do not understand the preference of 200 miles.

General BROWN. Under the Law of the Sea Treaty which we are seeking, this freedom of passage will be guaranteed, No. 1. No. 2——

Senator NUNN. It is now already though, is it not?

General BROWN. No; just outside 3 miles.

Mr. MOORE. A number of states would challenge it. For example, Spain challenges it for the Strait of Gilbraltar right now. We would hope the Law of the Sea Conference would make it abundantly clear that there were these guarantees of free transit through over, and under straits used for international navigation.

General BROWN. I would like to refer to my sea lawyer, Admiral Morris.

Senator NUNN. I think this is important, Mr. Chairman.

The CHAIRMAN. Let the admiral answer.

Admiral MORRIS. Mr. Chairman, Senator Nunn, I think this problem centers around the second part of the general's response; that is the interest in achievement of the treaty. As you say, there are many straits that would be closed by an extension of the territorial sea, whether it is 6-mile, 12-mile, or 200-mile. Inherent in the treaty that we seek—and we have made this very clear—is free transit of straits regardless of the distance, from high seas to high seas. That is then the reason for the second part of the general's response concerning the treaty. Whether it is 12 miles or 200 miles, it is to preserve this right of transit. The concern for 200 miles really applies more to military mobility overall. On the issue of straits any point in an ocean for as wide as 400 miles would only assimilate a strait; by definition it would not be a strait. We would lose the right of submerged transit and overflight in every area of the world so overlapped by territorial seas.

There are many straits that would be closed by extension of territorial seas even to 12 miles. We have, however, made it very clear that a fundamental basis for this treaty and our adherence to it will be the underlying right of transit regardless of the extension of the territorial sea.

Senator NUNN. You are saying the number of miles then is really immaterial, but this unilateral action by us——

Admiral MORRIS. In straits it is.

Senator NUNN. Might preclude a successful completion of the Conference which would then put down in writing what we already claim to be the case on free passage?

Admiral MORRIS. On those straits where there is now, by our definition, a high seas corridor, yes, sir, and there again it goes back to General Brown's second concern.

Senator NUNN. So we are using free passage in some areas where it is not really part of a concrete international agreement.

Admiral MORRIS. We are using it in the sense of high seas rights by our definition of high seas measured against the 3 miles we recognize at this time—and there are over 116 straits where there is such a high seas corridor.

The CHAIRMAN. All right, gentlemen, thank you. There are others that have questions no doubt. I have some questions here that I am just going to ask unanimous consent that they be inserted in the record for your attention, gentlemen. If they have already been answered in your opinion, you can refer to that point and point it out.

Senator Thurmond, I believe you had some additional questions that you did not quite finish before we left. And I want him to show that map again because there are members here who were not here. But let us hear from Senator Thurmond first. Senator Thurmond.

Senator THURMOND. I had just a few more questions, and had almost finished, and they can be answered for the record.

The CHAIRMAN. Without objection, the Senator's remaining questions will be inserted in the record for proper answers.

Senator McIntyre, that would bring us back to you.

Senator MCINTYRE. I am a little bit confused here now by what I understand the policy as declared in the purposes of this bill states. As I understand it, it is the position of the United States of America at this Caracas Conference?

Mr. MOORE. It is very close to our position on fisheries, that is correct.

Senator MCINTYRE. If that is our position, why is General Brown in here objecting to the bill? Do we not check with the military before we take a position?

Mr. MOORE. Yes we do, and this is an interagency position that includes all of the executive branch. But again, the problem is the difference between unilaterally doing this, and agreeing in a treaty which will guarantee the things that we are particularly concerned about, and not only defense, but other things including navigation, including the straits issue, and I think this is the most important point, that we cannot simply compare the similar claim that the United States is making in this bill with what would happen around the world if only that claim were to be adopted.

If we can do this unilaterally, other nations can and will make other unilateral claims, many of which we feel will be severely damaging to our interests.

The CHAIRMAN. Let us see if he has other questions.

Senator MCINTYRE. I just want to point out to my good colleague here, Senator Nunn, that it is my opinion that the statement of Mr. Moore about the conclusion of this treaty in 1975 is grossly optimistic. Roughly there are I think approximately 100 nations convening at this Conference, and after you come to these agreements you are then going to have to go back to their respective countries and get whatever approval their constitutions or laws require. Meantime,

other nations are decimating our national resources. And are we going to have to put up with that?

He says that unilateral action may set off fireworks. Good. We ought to have some fireworks.

Now I will be happy to look at your map.

The CHAIRMAN. All right, Senator. Thank you.

Gentlemen, let me say this before we leave. It looks to me like this matter just comes rapidly down to the point of what are you going to be able to do about this thing short of passing a bill like this, and just how strong can you make your position now, within reason, as to prospects of getting action. As Senator McIntyre said, parliamentary bodies, that the treaty, if it is consummated, has to go before, very many of them, with the delays that go with it, and how positive in bedrock now can the State Department be on this matter?

Mr. MOORE. Mr. Chairman, I think that states the problem very well, and I am very sympathetic with the concerns, the very real concerns that Senator McIntyre and his constituents have. The question is, How do we really go about, in the interest of all of our ocean interests and our fisheries interests, resolving those problems? We do feel that this is an extremely difficult negotiation; nevertheless, that it is the best way to definitively resolve these problems of coastal fisheries. We do not feel that we should simply sit back in the interim period and take no action. We think it is particularly important in this interim period, until such a treaty can be concluded that we take effective measures to protect our fish stocks. All of us must also realize the possibility that this treaty will not be concluded on the timetable that we seek.

We feel that the new enforcement procedures that we have announced, plus the kinds of bilateral negotiations that we will be engaged in over the course of the next year, plus other measures that we are studying at this time will offer very substantially increased protection for our fish stocks. But I think the fundamental problem that we have to face is that we have an opportunity now, we have the best opportunity we have ever had as a nation, not only on the fisheries problem, but on all of our oceans issues, to get a definitive resolution. And if we move unilaterally now on these claims, it is not merely fanciful that claims of other nations will lead to a territorial sea or other damaging ocean claims.

My own feeling is we are likely to see very expansive territorial sea claims around the world should the United States go this route.

The CHAIRMAN. You speak to the possibility of bilateral agreements if you do not get this comprehensive agreement. Are the possibilities bright, as to bilateral agreements with Japan or the Soviets? They seem to be the main ones that you are concerned about.

Mr. MOORE. I think the possibilities of such agreement on more favorable terms are good. At the present time we do have fishery bilaterals that are limited to certain species with both the Soviet Union and the Japanese, and we will be renegotiating those.

In addition, we have announced these new measures which will require, for all nations that are using bottom tending gear which would normally result in the catch of U.S. Continental Shelf living resources, bilateral agreements with the United States for protection of those stocks. So, this will be an additional area in which we will be seeking

added protection. I believe we will be getting very substantially increased leverage from the new enforcement measures that we have announced.

The CHAIRMAN. I assume that all Senators have finished their questions now. I think the map is worth looking at again by those that are present now. Do you want to point out the map, Mr. Moore?

Mr. MOORE. Yes, I would be happy to, Senator. I think the first problem, and we realize that what we are talking about in this extension is a fishery contiguous zone, so the question is what is likely to happen if we go the route of unilateralism, will others claim a 200-mile territorial sea, will they be as restrained as our claim? We feel the answer to that is they will not. They will make the kind of claim that appeals to them.

If through time a pattern of unilateralism were to lead to a 200-mile territorial sea, we would have a situation where all of the pink areas, which is more than a third of the world's oceans, would be closed to overflight as of right, they would be closed to submerged transit as of right, and they may have a variety of other restrictions that might be imposed.

In addition, we could see that areas, for example, such as the Mediterranean would be completely overlapped by these 200-mile territorial sea claims.

Using the zone locked chart, let me indicate one other effect of a 200-mile territorial sea around the world's oceans. It is that even though coastal states by definition face an ocean, more than a majority of all coastal states, there would be 66 out of 119, would totally lose their overflight rights, and their rights to submerged transit, and a variety of other potential restrictions if you had a 200-mile territorial sea around the world's oceans. The reason for that is these states would have to go through the territorial sea of one or more neighboring states in order to have access to their own seaports. Were that to occur, it obviously would have the greatest kind of impact on the sovereignty of those nations, on their ability to protect themselves, their ability to receive protection from their allies, and their ability to control commercial shipping in and out of their country. Those are just the most obvious of the surface effects of a 200-mile territorial sea.

You can see what a 200-mile territorial sea would do in this pink area, there simply is no important trade route that does not go through a number of differing territorial seas under a 200-mile approach. And are those states going to impose different standards for ship construction, for example, require a kind of hull construction that we do not have? This is one of the kinds of concerns that we have if we go to unilateralism.

One other point, Mr. Chairman, I would like to make is that we may look at the situation as one of, well, why don't we make the fisheries claim, because if the other nation makes a claim of 200 miles for a territorial sea, we simply would not recognize it, and we have the military power, we can protect our vital interests in these most serious situations. The difficulty is first that through time that kind of unilateral pattern of claims in the world's oceans is going to in a variety of very real ways raise the costs to all ocean interests in the United States. We probably are not going to use the 7th Fleet to protect certain kinds of marine scientific research. We have seen in

the past that we have not used our military power to protect certain kinds of distant water tuna fishing interests off Ecuador and Peru.

We have a serious potential for difficulties in bilateral relations; for example, efforts to cause us to enter into new bilaterals every year to pass submerged through Gibraltar, at great expense to the United States.

The second difficulty with an approach which says, why don't we get what we want and we can continue to resist the claim of other nations, is that that is the converse of precisely the situation the Soviet Union would be in if we pass S. 1988. If the United States unilaterally extends its contiguous fishing zone to 200 miles, they are then faced with a situation of how do we protect our interests? Do we take a loss of our fundamental interests in fishing right in the middle of one of the most important international negotiations, or do we use force or some other leverage to back up the kind of claim that we feel is essential? This is one of the things that makes us very concerned about the potential for conflict.

The CHAIRMAN. May I ask a question right there now? Others may know but I do not. Who are the main offenders here on this fishing along our coastline? I have heard the Soviets mentioned and the Japanese. Who else?

Senator MCINTYRE. East Germany.

Mr. MOORE. The two largest fishing nations off our coast are the Soviets and the Japanese, and there is East Germany and a number of East European countries, and Spain, and there are a number of others that fish off our coast.

The CHAIRMAN. Senator McIntyre, do you have any additional names to give on that? Do you know?

Senator MCINTYRE. I suspect the Polish.

The CHAIRMAN. I see.

Senator MCINTYRE. East Germany, Poland, Rumania.

The CHAIRMAN. Where else do we fish? I know where the shrimp-boats off Biloxi go to, but I don't know where everybody else goes to.

Mr. MOORE. This is very important on the impact of the 200-mile claim. Once again, though your legislation has an exception built in for distant water fishing, there is no reasonable expectation that if the other nation went unilateral that we would build in such expectations. We have two sets of problems. One set of problems would be the distant water shrimp fleets that are operating out of Mississippi, for example, and other gulf States which are fishing off of Mexico, or within 200 miles of the coast of a number of other countries in the Caribbean and Latin America.

The second problem we have would be our distant water tuna fleet which operates in many cases out of California, and I believe increasingly out of Puerto Rico, which goes down off the coast of Latin America at the present time and in some other areas, and is fishing within 200 miles of these areas. And we do not feel that it is a rational way of conserving tuna to have just a 200-mile limit. It certainly would very severely hurt our own tuna interests by passage of this bill.

The CHAIRMAN. What else is there on the east coast that goes to other areas, so far as you know; I mean fishing industry?

Mr. MOORE. Some of our New England fishermen fish in areas which fall within a projected Canadian 200-mile zone. In addition, there is a substantial spiny lobster industry operating out of southeast Florida, which fishes in areas off the Bahamas.

The CHAIRMAN. Gentlemen, what other questions do we have? May I ask for volunteers here now to ask questions?

Senator MCINTYRE. Mr. Chairman?

The CHAIRMAN. Senator McIntyre.

Senator MCINTYRE. To give the members of the committee a brief feeling of the impact of this as it pertains to the New England coast and the east coast, let me say for the record that the Soviet Union maintains large, highly modernized fishing fleets operating off the northeast coast, and as far south as Cape Hatteras. In addition to the Soviet Union, Canada, Spain, West Germany, Poland, Bulgaria, Rumania, East Germany, Japan, Italy, and others now fish in the northeast or New England.

In 1972, the number of foreign fishery vessels sighted monthly ranged from 14 to 329. The fisheries catch amounted to 960,000 metric tons, equal to the total catch of American fishermen in this area.

In 1972, our per capita consumption of fish was the highest in 45 years, but the quantity of fish landed by American fishermen has decreased. In 1970 to 1971, the northeast fleet landed 46 percent less than it had 9 years earlier. The bulk of fish eaten in the United States are imported. Foreign vessels have succeeded in outfishing our fleets and have depleted our supplies.

Thank you, Mr. Chairman. And the State Department rolls merrily along.

Does any other member of the committee wish to say anything at this time? Any comments or questions to our witnesses? There seem to be no further questions, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Gentlemen, I understand that Senator McIntyre has asked you if you wish to say anything further?

General BROWN. He has, and we do not, sir.

The CHAIRMAN. Nothing further?

We want to thank you for your appearance here and for preparing for it, and it seems that you were well prepared.

The committee tomorrow, gentlemen, will hear Senator Magnuson and others, which include our own Senator McIntyre if he wishes, and I hope he can attend the meeting. And we will move along as far as we can on this bill this week, and we must return it to the Senate floor by the 15th of November.

I will repeat so that you will be sure that you understand that we are in a time limitation on this, and it was about ready to be taken up on the floor. If you have any additional testimony we just invite you now to send it on in representing the departments you have. We are going to be away, so you might want to file answers or what you think is an answer to other testimony that may be given here. So we will give you that opportunity now.

General BROWN. Thank you.

Mr. MOORE. Thank you very much, Mr. Chairman.

The CHAIRMAN. All right, gentlemen, we will take a recess until tomorrow at 10 o'clock.

PREPARED QUESTIONS FROM SENATOR STENNIS TO GENERAL BROWN

Questions: What specific evidence do you have that passage of this fisheries legislation would promote retaliatory measures by foreign nations which could adversely affect U.S. national security?

Answer. This view is based upon two significant and, in my judgment, highly probative facts. First, is the behavior of the international community. Prior to the United States' claim to a 12-mile fishing zone in 1966 only 25 states claimed a territorial sea of 12 or more miles. Now over 80 states claim a territorial sea of 12 or more miles. Second, opinion samples have been taken by both the U.S. delegation at Caracas, and U.S. Embassies around the world. The responses show that a significant number of countries are withholding action on contemplated unilateral claims to extended jurisdiction of various types pending a comprehensive Law of the Sea Treaty. Many of these indicate that they would proceed unilaterally prior to completion of the Convention should the U.S. enact S. 1988.

In my view, the United States takes a very serious risk if we ignore this evidence.

Question: What specific retaliatory measures by foreign nations can you envision as a result of the passage of this fishery legislation that could threaten or impede the U.S. strategic military posture? What is your assessment of the likelihood of these retaliatory measures? What specific retaliatory measures by foreign nations can you envision as a result of the passage of this fishery legislation that could threaten or impede the U.S. conventional military posture? What is your assessment of the likelihood of these retaliatory measures?

Answer: With regard to our strategic posture, the most significant retaliatory measure the nations of the world could take would be to declare the 200-mile territorial sea discussed in answer to your previous question. Some nations will limit their claims to a 200-mile fishing zone, which will have no strategic impact. Other nations will claim only the right to a pollution control zone. They will attempt to exercise control over vessels bringing vital energy supplies to our shores, over nuclear powered vessels, and over fishing and other craft. I am certain that our movement in this area would lead other nations to take action contrary to our security interests. There is no doubt as to this. The only question is the degree.

These unilateral measures would adversely impact on the survivability and the effectiveness of our seaborne strategic nuclear deterrent. Virtually every passage now narrow enough to be called a strait would be encompassed by a 200-mile claim. Thus, all the straits of the world through and over which the United States currently exercises high seas rights are potentially threatened by this bill. The site for localized aggression could be chosen in an area where restrictions on our mobility would place the United States at the greatest disadvantage. My conviction is that these retaliatory measures will be taken, and from all the evidence available to me, I believe there is a high probability that various combinations of these types of claims will result in a significant impact on our security interests.

Question: Is it not true that any such retaliatory measures by foreign nations would have an equally adverse effect on the strategic and conventional military posture of the Soviet Union?

Answer: No. The past conduct of the Soviet Union clearly indicates that they may not consider themselves bound by international law with regard to rules which inhibit their activities in areas where they feel their important interests are involved. The United States, on the other hand, has traditionally respected the rules of international law, even under such circumstances.

Question: In your judgment could the U.S. accommodate any of the possible retaliatory measures by foreign nations and still maintain a satisfactory defense posture?

Answer: In the event other countries declare a 200-mile territorial sea, the only possible way to accommodate satisfactory defense requirements would be to preserve our essential mobility by negotiating or purchasing the right of overflight or submerged transit or by the continued exercise of such rights despite the denial of others or our rights to do so and the use of force in defense of such rights when confronted by the force of others. In my view, neither of these courses of action is satisfactory.

Question: Would you identify the specific straits and areas where "free passage" could be jeopardized by the adoption of this fisheries legislation?

Answer: As can be seen from the map provided the Committee, every passage wide enough to be called a strait would be overlapped by a 200-mile territorial sea. Access to the Middle East, the Mediterranean, Northern Europe and Asia would be denied or severely limited.

Question: Do you think the Coast Guard alone is capable of enforcing this fisheries legislation against foreign vessels?

Answer: The Coast Guard has already asked for and received an agreement with the Department of Defense for assistance in enforcing the 12-mile limit. Enforcement within the principal fishing areas of the 200-mile fishing zone could be accomplished by the Coast Guard only if foreign fishing vessels are unarmed and unescorted. There is no way, in my view, the Coast Guard could enforce the 200-mile fishing limit without Department of Defense assistance in the event foreign fishing vessels are escorted by men of war.

Question: Do you think the Coast Guard now has the resources to enforce this legislation particularly as to fishing zones surrounding U.S. territories such as Guam, the Virgin Islands, etc.?

Answer: The addition of U.S. territories exacerbates the problem described above. I believe that the Coast Guard would be capable of enforcing a 200-mile fishing limit only in the principal fishing areas.

Question: What do you think are the prospects of an armed or military engagement in the enforcement of the fisheries legislation?

Answer: Quantifying this uncertainty is not an easy task. I do believe, however, there is an appreciable risk of an armed or military engagement, a risk which is unwarranted at this time.

Question: Do you have any evidence to suggest that as a result of the fisheries legislation either Japan or the Soviet Union would provide military escorts for their fishing vessels?

Answer: Mr. Moore has reported serious Japanese and Soviet concern with regard to this legislation. We have no evidence which would suggest that they would provide military escorts for their fishing vessels. We cannot, however, rule out this possibility with regard to the Soviet Union.

Question: In what specific ways is a successful negotiation at the Law of the Sea Conference in Caracas of fundamental importance to U.S. defense and security interests?

Answer: Currently, the mobility fundamental to our security interests depends upon the freedom of navigation on and over the high seas and through and over international straits. These interests can be accommodated only by a comprehensive treaty which provides for a narrow territorial sea (no more than 12 miles) and unimpeded passage of international straits. By far the best way of preserving this essential mobility is through a comprehensive Law of the Sea Treaty which will reaffirm our vital rights of navigation, overflight, and unimpeded passage of international straits, and at the same time, settle existing and avoid potential conflict.

Question: What are the prospects that foreign nations will unilaterally adopt measures which could threaten or impede U.S. military mobility irrespective of the status of the fisheries legislation?

Answer: Based on continued good faith negotiations and the maintenance of the status quo as to unilateral claims by major nations, not more than two or three countries are known to be seriously considering unilateral claims between now and the next session of the Law of the Sea Conference which begins in Geneva next March. I have been advised that diplomatic efforts to persuade these countries to withhold making such claims in order to enhance the prospect of reaching agreement during the Geneva negotiations are underway. On the other hand, should the United States adopt unilateralism, the opposite situation would prevail, and I would anticipate a flood of unilateral claims threatening essential U.S. military mobility.

PREPARED QUESTIONS FROM SENATOR STENNIS TO MR. MOORE

Question: What are prospects of achieving effective bilateral or partial multilateral measures to relieve U.S. fisheries problems in the interim period prior to a Law of the Sea Treaty?

Answer: The Department plans in coming months to negotiate for additional measures to enable us to exert more control over our coastal fisheries. Significant progress has been made in the last few years in fisheries negotiations, and we intend to continue to push for effective and adequate conservation measures. We

feel that as a result of our previous efforts, heightened public interest, and new initiatives such as the recent enforcement guidelines for protection of our continental shelf living resources, our chances for useful negotiations are substantially increased.

PREPARED QUESTIONS FROM SENATOR THURMOND TO MR. MOORE

Question: How confident are you that the Law of the Sea Conference will produce a treaty that will provide for a 200-mile economic zone for ocean areas of coastal states?

Answer: I am confident that one of the elements of a comprehensive Law of the Sea Treaty will be a 200-mile economic zone with at least management jurisdiction and preferential rights over coastal fisheries. The inclusion of such a zone in the Treaty was all but formally agreed to this summer in Caracas, subject of course to acceptable resolution of other issues, including guarantees of unimpeded transit through over and under straits used for international navigation. What still remains to be negotiated is the nature of the rights and duties within the zone and special treatment for anadromous and highly migratory species.

Question: Are the provisions of S. 1988 in general the same provisions that you were hoping to achieve in a Law of the Sea Treaty?

Answer: The provisions we hope to obtain in a Law of the Sea Treaty have the same objectives as S. 1988. We propose to obtain coastal State jurisdiction and strong management authority over coastal and anadromous resources. However, we are also seeking elements in the Law of the Sea Treaty which may be undercut by S. 1988. One is special treatment for highly migratory species which on the basis of their migratory patterns should be managed in accordance with regulations of international or regional organizations. In addition, we propose that certain coastal State duties be established in order to ensure conservation and maximum utilization of fish stocks. The S. 1988 approach unilaterally extending our coastal state jurisdiction cannot provide and in fact undercuts these duties as well as the international basis for agreement.

Question. In your letter of September 5, 1974 to Senator Magnuson you advised that foreign governments whose vessels fished above the continental shelf of the United States are being notified of new guidelines for the enforcement of our rights to continental shelf fishery resources. You indicated the effective date of these new procedures would be December 5, 1974.

First, is December 5 still the effective date?

Second, how confident are you the new guidelines will be adhered to?

What feedback, if any, have you received from foreign governments about these new guidelines?

How does the United States intend to enforce these new guidelines?

Answer: Yes, December 5 is the effective date.

In answer to your second question, we will make every effort to ensure speedy implementation and full compliance.

We have not yet received any feedback and would not expect to until we begin the process of negotiating the required agreements.

In answer to your last question, the precise instructions to field enforcement officers of the U.S. Coast Guard and National Marine Fisheries Service are currently under development and will be promulgated well in advance of December 5. We expect Coast Guard units will patrol the applicable areas, and that boarding and inspection of foreign fishing vessels using bottom tending gear which would normally result in the taking of U.S. continental shelf living resources will be the primary method of ascertaining compliance.

My opinion that other countries could well impose even more stringent controls over their coastal waters if S. 1988 became law is based on several factors. First a number of countries are now considering extensions of coastal state jurisdiction. We have tried to discourage such unilateral jurisdictional claims in light of our view that these questions should be resolved in the Law of the Sea Conference. Should the United States make a unilateral claim, however, it is likely that some of these other countries would do so as well. As you know, there have been recent extensions of jurisdiction more inclusive than just fisheries jurisdiction, even in the face of the LOS Conference. For example, Madagascar, Nigeria, and Tanzania have made extended territorial sea claims since preparation for the Conference began. Many countries are not restrained by the navigation, strategic, scientific research, and distant water fishing interests which are important to the U.S.

Second, we have taken systematic soundings from our embassies as to the potential impact of passage of S. 1988 and in many cases it seems evident that passage would give substantial impetus to a variety of unilateral claims during the course of the Law of the Sea Conference. These soundings are confirmed by my discussions with the Soviets and Japanese and a cross section of Conference leaders from all regional groupings. In short, the impact of passage would be immediate and substantial in encouraging damaging unilateral claims. These factors lead me to believe that passage of S. 1988 is likely to be a catalyst to the same types of unrestrained claims that were made after declaration of the Truman Proclamation in 1945.

PREPARED QUESTIONS FROM SENATOR THURMOND TO GENERAL BROWN

Question. If the Law of the Sea negotiations fail to produce a treaty next year that provides a 200-mile economic zone, would you then still oppose this bill?

Answer. I have been advised that it is extremely unlikely that a Law of the Sea Treaty acceptable to the United States and a majority of the nations of the world would not contain a 200-mile economic zone. Furthermore, if a comprehensive treaty does not emerge during 1975, the United States would have to reassess its position on all ocean uses to insure a policy which would best protect all our interests, resources as well as security.

Question. You indicate that it is your assumption that the Soviet Union and Japan would probably not seek our permission to fish within 200 miles of our coasts even if this bill became law. To your knowledge has the Government of the United States been informed either officially or unofficially that this, in fact, would be the case?

Answer. I have no knowledge of any communication to the United States Government by either the Soviet Union or Japan that goes into such specific detail as to outline any planned response, such as non-compliance. They have, however, expressed serious concern to us. I base my opinion on the overall Law of the Sea policy of each of those nations. Japan has been equivocal as to whether she will accept an economic zone. The Soviet Union has made it clear that she will accept an economic zone only on certain conditions, among which are treaty recognition of navigational rights, including unimpeded transit of international straits and certain fishing rights. Were either of these nations to recognize another's right to unilaterally establish a 200-mile fisheries zone wherein compliance amounts to recognition, they would have conceded such right to all nations. This would totally destroy not only their conference negotiations, but would abrogate the juridical basis on which they presumably must rely to protect their own interests if the Conference should fail.

Question. Assuming S. 1988 became law, please expand upon potential problems of enforcement. For example, would it be your recommendation that the task of enforcement be delegated solely to the Coast Guard or would it be a task that required the use of U.S. military forces?

Answer. As an additive item to my comments on the respective enforcement responsibilities in a confrontation situation with Soviet warships off our coasts, the application of the proper amount of force, whether by the Coast Guard and/or Department of Defense, would be of singular importance in precluding ever-increasing escalation. Of equal importance would be the timing and manner of Department of Defense force introduction whether as a supplement to or replacement to the Coast Guard.

Question. Regarding the right of the United States to transit certain areas of the ocean submerged, is it your interpretation that passage of this legislation could cause other countries to extend their territorial sea boundaries beyond 12 miles, thus forcing us to request transit permission?

Answer. Yes, it could cause such extensions. As you know, the U.S. does not recognize unilateral extensions of territorial jurisdiction beyond three miles, and under international law permission for submerged transit may not be required in high seas areas. If we act unilaterally on fish it will be very difficult, if not impossible, for us to maintain that others may not so act on navigation or other freedoms.

Question: General Brown, everyone would recognize the desirability of an international agreement as the best course to protect the fishing areas off our coast. How would you rate the chances for success of such an agreement and in what time frame do you feel such an agreement could be achieved?

Answer: I am somewhat optimistic about the chances of agreement in 1975, and I have been led to believe that interim application of certain portions of the agreement, including those relating to fishing, could begin shortly after an agreement is reached.

Question: Have any other major powers taken unilateral action such as that now being considered by the Congress?

Answer: No.

Question: Does the Administration know of plans of any major powers to take such unilateral action?

Answer: Not to my knowledge.

Question: General Brown, as the chief agent of the President in enforcement of a 200-mile limit, would you describe for the Committee how such enforement would be implemented?

Answer: No such plans currently exist. Anything I would say now would be purely hypothetical. Careful coordination among the Department of Defense, the Department of Commerce, and the Department of Transportation would be required in the formulation of such plans. Initial responsibility would undoubtedly continue to rest with the Coast Guard. The Department of Defense's contribution would probably be in the area of surveillance, assistance as covered by an interagency agreement (DOD/DOT), or in the event of confrontation with escorted fishing vessels.

Question: What would you envision as the most serious problems growing out of such enforcement?

Answer: Whenever the Armed Forces of the United States confront the Armed Forces of another nation, the most serious problem is the risk of escalation.

Question: In what ways would you envision that the Japanese or Soviet governments might retaliate against U.S. forces operating in their own territorial areas?

Answer: I am reasonably sure the U.S. forces operating in Soviet-claimed territorial seas without the consent of the Soviet Government would be challenged by the Soviet Navy in any effective way available to them.

Question: If a 200-mile limit were adopted by other nations, to what degree would such an action diminish the effectiveness of our seaborne nuclear deterrent?

Answer: The range of the missiles on U.S. SSBNs is 2500 miles. You can see by looking at the map provided the Committee that the effectiveness and promptness of our retaliation by SLBMs would be considerably constrained by the denial of the use of the area noted as a patrol area. Furthermore, the restriction of the seas constrains our forces and simplifies the Soviet problem of locating our SSBN patrols. These constraints adversely affect the deterrent capability of our seaborne nuclear deterrent.

DEPARTMENT OF STATE,
Washington, D.C., October 31, 1974.

Hon. JOHN C. STENNIS,
Chairman, Armed Services Committee, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: I very much appreciated the opportunity to testify on the Law of the Sea Conference and S. 1988, the 200-mile fishing bill, before the Armed Services Committee. During the hearing you asked me to respond for the record as to the prospects of effective bilateral or multilateral measures to relieve U.S. fisheries problems in the interim period prior to a law of the sea treaty. During the course of the hearing you also asked several questions related to the enforcement of existing or prospective regulations.

We are actively pursuing three avenues which, in my judgment, will result in substantially improved protection of our coastal fishery resources. These are the establishment of new enforcement measures with respect to living resources of the continental shelf, strengthened bilateral and multilateral agreements with nations fishing off our coasts, and a study of other measures which might properly be taken to relieve our interim fisheries problems.

Under existing international law the coastal state has jurisdiction over the resources of the continental shelf including living resources such as crab and lobster. In September, the Department of State announced new enforcement guidelines with respect to these fishery resources, which will become effective on December 5. These new guidelines will substantially tighten our control over the taking of living resources from the United States continental shelf incidental to

other fishing operations. We have announced that, for the first time, we intend to board foreign fishing vessels using bottom tending gear (including bottom tending trawls) which would normally result in the taking of living resources of the U.S. continental shelf. Unless nations fishing off our coasts have entered into agreements with us for the protection of our continental shelf living resources, any taking of such resources will be subject to enforcement by the United States. Because of their potential impact on foreign nations fishing over our continental shelf, these new measures will go into effect on December 5, 1974, after a 90-day grace period to enable affected nations to adjust their fishing methods or to conclude agreements with us for the protection of our continental shelf living resources.

Moreover, we have in the past several years strengthened both bilateral and multilateral regional agreements regulating fishing off our coasts. In the Northwest Atlantic we have instituted a unique and comprehensive management regime for the regulation of the entire biomass off the U.S. coast. This system involves separate national quotas for each target species, as well as an overall national quota for the total catch. There are also a series of additional measures such as closed areas and seasons, and gear restrictions. This system is now in its first year of full operation and it should have a significant effect on protection of the stocks. There are other multilateral and regional negotiations scheduled during the next few months in which we expect further to strengthen these measures and to secure new agreements with respect to our continental shelf living resources.

Finally, in recent weeks we have discussed, on an informal basis with interested members of the Congress, additional measures that might be taken to protect our fisheries without at the same time undercutting our chances for a comprehensive law of the sea treaty, which we continue to believe is the mechanism which will best resolve our fisheries problems as well as protect our other oceans interests. Specific legislative measures are now under study.

Again, let me express my appreciation for your courtesy and that of other members of the Senate Armed Services Committee in addressing the very critical issues of a satisfactory law of the sea treaty.

Sincerely,

JOHN NORTON MOORE,

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

EXTENDING JURISDICTION OF THE UNITED STATES OVER CERTAIN OCEAN AREAS

WEDNESDAY, OCTOBER 9, 1974

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 212, Richard B. Russell Senate Office Building, Hon. John C. Stennis, chairman.

Present: Senators Stennis (presiding), Jackson, McIntyre, and Thurmond.

Also present: T. Edward Braswell, Jr., chief counsel and staff director; John T. Ticer, chief clerk; W. Clark McFadden II, counsel; Charles J. Conneely, John A. Goldsmith, Edward M. Kenney, Robert Q. Old, professional staff members; Phyllis A. Bacon, assistant chief clerk; Christine E. Cowart, clerical assistant.

The CHAIRMAN. Our committee will please come to order.

We are delighted to have Senator Magnuson as our first witness, and Senator Stevens is already here. He also will be a witness.

We have the names also of Senator Jackson of the State of Washington, who is a valued member of our committee, and Senator Muskie's name is also here.

STATEMENT OF HON. WARREN G. MAGNUSON, U.S. SENATOR FROM WASHINGTON

Senator MAGNUSON. Senator Kennedy wants to file a statement too.

Senator MCINTYRE. Mr. Chairman, I will file a statement also.

[Statement of Senator McIntyre follows.]

MR. CHAIRMAN: As a member of the Armed Services Committee and a representative from a coastal state, I find myself in a unique position with regard to S. 1988. I have listened to the testimony of the Department of Defense as delivered by General George Brown and I have listened to my constituents. It has become clear to me that this decision is not one of special interest vs. protection of the general good.

The Defense Department is fearful of retaliatory action by other countries as a result of our enforcement of a 200 mile limit. Yet, 26 countries already have extended fishing limits and the problems which the Defense Department has outlined have not occurred. The situations which my constituents have relayed to me are real and have occurred. Our commercial fishermen are in trouble and our fish stocks are being depleted at an alarming rate.

Nowhere is this problem more severe or dramatic than in the New England waters. Before the 1960s, the New England fishing grounds were, with the exception of a few Canadian vessels, fished exclusively by American fishermen.

Figures for 1971 and 1972 show catches of well over one million tons from this area despite universally recognized overfishing and a disastrous decline in

abundance of some species, among them herring and haddock. The latest figures show that of this tremendously increased take of fish, the U.S. share in the southern New England area is only 12% and in the prolific George Bank area a mere 10%.

In my view, passage of the Magnuson measure for interim unilateral extension of U.S. Coastal fisheries jurisdiction to 200 nautical miles off shore would be very much in the public interest. It would set the stage for solving many urgent coastal fish conservation problems. It would move aggressively toward accommodation of the special needs of the valuable anadromous fisheries. Contrary to the specious apprehensions of the distant-water tuna fishing interests, it would not conflict in any manner with their proposals to manage tuna through some kind of international organization. In evaluating the alternatives, it should be kept in mind that the combined domestic commercial and recreational fisheries, collectively, are on the order of 15 or more times more valuable to the American economy than the tuna fisheries.

Witnesses have expressed conflicting opinions, but my feeling is that enactment of a meaningful treaty resulting from the Law of the Seas Conference will not be realized for two or three years. These years are crucial to our rapidly depleting stock. This interim action, directed by S. 1988, will give aid to our commercial fishing fleets which have waited patiently for protection from their government; additionally, it will let the nations involved in the Law of the Seas negotiations know how serious the U.S. is in protecting its fishing fleet.

The three-year International Commission for the Northwest Atlantic Fisheries Agreement signed in October, 1973, touted as "bringing new hope for gravely depleted fishing grounds in the Northeast," provides quotas for the Soviet Union and other Eastern bloc countries over three times that accorded our fleet. The United States and Canada together received less than a quarter of the 923,000 metric ton quota for 1974. This ICNAF "victory" may prevent the Yellowtail flounder from joining the haddock and the Atlantic halibut in "commercial extinction." It clearly neither terminates Soviet hegemony off our coasts nor provides enough catch reduction to permit overall recovery of stocks, or even necessarily to arrest their decline.

In the meantime, off the Central Atlantic coast, which does not fall under international regulation, a new Soviet purse seining fleet has appeared over the past two years with an estimated capacity greater than the entire U.S. menhaden fleet. This poses a threat to the menhaden fishery, one of the last reasonably viable coastal fisheries remaining.

Our fishermen are not competing against individual Soviet or Polish or Romanian or East German fishermen—they are rather, with only a trickle of Federal aid, competing directly against nationally owned or heavily subsidized fleets directed by national policies which insist on increased protein production from the seas regardless of where it exists and without the responsibility of any conservation ethic.

And meanwhile we, in official capacities, continue to negotiate, wring our hands, tell our fishermen to be patient, spend millions to document the drastic decline of these protein resources, and try to insist that our fishing industry adopt conservation practices. For what purpose, I ask, to save the resource for further exploitation by foreign fleets?

The time to act is now. This interim measure does not exclude all foreign entry into the management zone. It permits entry of fishing vessels belonging to nations having a traditional interest in the subject fisheries, subject to regulation. The power to regulate is the power to exclude, and this, of course, is what creates the leverage.

I ask my colleagues to consider this measure carefully. If we do not move to protect our fishing fleets now—in three years the Law of the Seas treaty will be protecting an extinct resource.

The CHAIRMAN. That is fine. They will be received and become a part of our record.

Now let me say to you now that this hearing is open to what I would call the fishery people, or groups. I felt we would just notify them today. You see, there is a timetable here, and we have to report on the 16th, and I do not want to ask for additional time. We could ask them to come Friday.

Senator MAGNUSON. Mr. Chairman, may I make a suggestion?

The CHAIRMAN. That is why I brought it up.

Senator MAGNUSON. I would think that Friday would be a day when the Senate floor would be so busy that you could not have any committee meetings. We are going to have literally 15, 20 pieces of legislation to beat the recess deadline, and anyone else who wanted to testify, if we come back on the 11th of November, they could come in during that time and we could have a half a day of hearings before you report the bill.

Tom, do you think that would be better? It is up to the committee.

The CHAIRMAN. No, we want to get the thing done right. I hear now that they may extend the time of our return, Senator.

Senator MAGNUSON. You mean our return?

The CHAIRMAN. The time of reconvening. Someone mentioned the 13th, so it has been pushed over to that. We will hear them.

Senator MAGNUSON. All right.

The CHAIRMAN. It is a question though of the staff having a chance to get things together for us. But, we will have a committee meeting and we will pass on the bill after the recess. I would like to officially notify them today, and they can send the testimony in advance. We are glad to recognize the Senator from Washington.

Senator MAGNUSON. Mr. Chairman, I have a very brief statement and I would ask the opportunity maybe to put some other matter in the record before you close the record.

The CHAIRMAN. Without objection that will be agreed to. Senator Magnuson, are you the author of the bill?

Senator MAGNUSON. No, I am one of the cosponsors. It is a team bill.

The CHAIRMAN. All right, you are one of the cosponsors and it came out of the Commerce Committee with a favorable report.

Senator MAGNUSON. Then it went to the Foreign Relations Committee in which they divided on it right down the middle.

Senator MUSKIE. About 8 to 9.

Senator MAGNUSON. I know why, and I do not want to take that up here with you now.

The CHAIRMAN. We are going to go primarily into the possible military aspect, but I thought it would be unfair to exclude the fisheries and the other side, so to speak, so we will hear all of it.

Senator MAGNUSON. Mr. Chairman, of course I appreciate the opportunity to appear here, and I would emphasize—if I only had one sentence to give to this committee—the emergency situation which faces our adjacent marine resources; and I would also note that even the most vigorous opponents of this measure cannot and do not deny that the threat is a real one, and one which must be met with immediate action to fisheries.

Since the United States abandoned its ill-fated species approach theory at the United Nations Law of the Sea Conference in Caracas on July 11, and Senator Muskie was there, and Senator Stevens went down there, there would seem to be little reason to debate the question of the 200-mile fishery jurisdiction. State Department and Law of the Sea delegation spokesmen now agree that if there is any agreement in these negotiations it will include this kind of an extension.

S. 1988 is a bill to protect the adjacent marine fisheries. It does not add 1 inch to our territorial sea jurisdiction. There are those who will proclaim that should we take this unilateral action, the world will scramble to follow. Further, they may not be as conservative or restrictive in their claims as we might be.

In October of 1966 the Congress unilaterally extended the U.S. exclusive fisheries jurisdiction to 12 miles. I was a delegate in Geneva in the fifties when we talked about this, argued about the mileage or whether we should extend it at all. It is true that other nations have since extended their fisheries jurisdictions to 12 miles. But what we want to remember is that in June of that same year, prior to the U.S. move, 32 nations had already then claimed the 12-mile fishery jurisdiction. They acted unilaterally. By the time S. 1988 was introduced in 1973 at least 16 nations had established territorial fisheries or fishery conservation limits, and I emphasize the word "conservation," of 50 miles or more. I submit that we, of course, are living in a changing world, and nowhere on the face of this globe is there more concern and activity than in the world's oceans. With that concern will come change, regardless of what any of us do.

Many of the same prophets of fear who haunted the legislative halls in 1966 in opposition to the 12-mile jurisdiction are with us again as we consider moving out further. I for one do not believe we should even have the luxury to wait around for definitive world statements on fisheries jurisdiction. It may never come.

We have had 12 or 15 years of this. We wait, wait, wait. Wait, wait, wait. Up until July 11 of this year, S. 1988 was branded as radical because it sought a 200-mile jurisdiction instead of the highly touted species approach. Now, it has become a question of unilateral action. In fact, the State Department does not take issue with the substance of S. 1988. I suspect that our dwindling offshore fishery stocks are not much concerned about the kind of action, and I know that our coastal fishermen are interested only in expeditious action.

Mr. Chairman, I would feel more comfortable with the fate of our ocean resources if I had not heard rosy predictions about effective international agreement so many times before. Our negotiators have been pleading for time on this issue for as many years as I care to remember. They had 100 items in Caracas on the agenda and they did not resolve 1. All they resolved is to recess and meet in Geneva; following that they are going to recess and meet in Vienna. Vienna is a seaport, a big seaport. And they know all about maritime affairs, and this has been going on, and on and on for all of these years. Our negotiators have been pleading for time on this issue over and over again. Wait, they say, until the preparatory conference begins; wait until they have concluded; give us a chance at Caracas; let us finish it up at Geneva. Now, give us until the end of 1975. And we are asked to wait. But I see no hesitance on the part of the huge foreign harvesting fleets off our shores. Our fisheries decline. Their efforts increase, and they want additional time for one more conference, two more, three more.

We are told that acting unilaterally is somehow improper. I will not burden the committee with the precedents on acting unilaterally on resources of the ocean. I will put all of that in the record. But one of the main actions was the Truman proclamation on the Continental

Shelf when he proclaimed U.S. jurisdiction over the, "National resources of the subsoil and seabed of the Continental Shelf beneath the high seas but contiguous to the coasts of the United States." This was required, he said, "in the interest of their conservation and prudent utilization."

I will put the rest of this in the record, but I just want to add that this bill will encourage treaties between nations within the 200-mile limit. The difference is that now we have no control, and under the bill we would have control as to what kind of conservation treaties would be made. We do not deny the right of other nations in certain cases to come in and ask that they may participate. And it is amazing to me, if we were to fish within 200 miles of the shores of the Japanese island, and if we were to start a fleet out there, that the Diet would probably meet in 24 hours and kick us out. It would be the same thing for Russia, the same thing for England, the same thing for Iceland. But they want to come over and do all of these things off our shores, and our fishermen are desperate. And we are not going to violate any treaties that we have beyond 200 miles. In fact, we encourage under the bill that they come to us and talk about it. There may be some cases where you want to come in—the shelf does not go out that far. And so we think this is the time for action on this matter.

I am not very modest about certain things; but if we had not introduced this bill, then nothing would have been done about this. I think we have got to show—the bill also is of a temporary nature, and if the miracle happens at Geneva or Vienna and they make an agreement, the bill is only temporary, and we sponsors would be the first ones to say all right, we are just running parallel. If you relied upon the State Department on this matter we would not have any fishing boats. New England is desperate. The highest unemployment rate in the country is within the fishing industry. We have no ocean perch left on the Pacific Coast off the coast of Oregon and Washington. The menhaden have gone, and up in Alaska the halibut fleet is down to zero almost, is it not?

Senator STEVENS. Yes, Senator.

Senator MAGNUSON. Almost to zero. I think it is time that we start to think about our own people a little bit. And in the Defense Department, we have nothing to do with navigation or territorial waters. I read something somewhere which quoted a Defense Department spokesman as saying that if we extended our fisheries zone then Spain would do something rash, or Portugal. The Portugese have a big fishing industry off their coast in the Atlantic, and if we start to fish within 200 miles of there, I know what would happen to us, they would send a gunboat out. That is what he said they would do—they would shoot across our bow.

But I just hope that this committee will act, and we are not touching the navigation rules, or the straits, and I understand the Navy's concern. But, that has nothing to do with fishing. A fishing boat is not going to bother them any.

The CHAIRMAN. Are you through?

Senator MAGNUSON. Yes.

[The statement follows:]

STATEMENT OF SENATOR MAGNUSON BEFORE SENATE ARMED SERVICES COMMITTEE
OCTOBER 9, 1974

Mr. Chairman, I appreciate the opportunity to appear before you today in support of S. 1988, the "Emergency Marine Fisheries Protection Act of 1974." I would emphasize the emergency situation which faces our adjacent marine resources, and note that even the most vigorous opponents of this measure cannot and do not deny that the threat is a real one and one which must be met by immediate action.

Since the United States abandoned it's ill-fated "species approach" at the United Nations Law of the Sea Conference at Caracas on July 11, there would seem to be little reason to debate the question of 200-mile fisheries jurisdiction. State Department and Law of the Sea delegation spokesmen now agree that if there is any agreement in these negotiations, it will include this extension.

S. 1988 is a bill to protect the adjacent marine fisheries, it does not add one inch to our territorial sea. There are those who will proclaim that should we take this unilateral action, the world will scramble to follow. Further, they may not be as conservative or restrictive in their claims as we might be.

In October of 1966 the Congress unilaterally extended United States exclusive fisheries jurisdiction to twelve miles. It is true that other nations have since extended their fisheries jurisdiction to twelve miles. But let us remember, in June of that same year, prior to the U.S. move, thirty-two nations had already claimed twelve mile fishery jurisdictions. By the time S. 1988 was introduced in 1973, at least sixteen nations had established territorial, fisheries, or fisheries conservation limits of 50 miles or more. I submit that we live in a changing world, and nowhere on the face of this globe is there more concern and activity than in the world oceans. With that concern will come change, regardless of what this Committee, Congress, or the U.S. government may decide. Many of the same prophets of fear who haunted the legislative halls in 1966 in opposition to a twelve-mile jurisdiction are with us again as we consider a 200-mile zone. I, for one, do not believe we should, or even have the luxury to, wait around for a definitive world statement on fisheries jurisdiction. It may never come.

Up until July 11 of this year, S. 1988 was branded as radical because it sought a 200 mile jurisdiction instead of the highly touted "species approach". Now, it has become a question of unilateral action. In fact, the State Department does not take issue with the substance of 1988. I suspect that our dwindling offshore fishery stocks are not much concerned about the kind of action, and I know that our coastal fishermen are interested only in expeditious action.

I would feel more comfortable with the fate of our ocean resources if I had not heard rosy predictions about effective international agreement so many times before. Our negotiators have been pleading for time on this issue for as many years as I can remember. Wait until the preparatory conferences begin; wait until they are concluded; give us a chance at Caracas; let us finish at Geneva. And now, give us to the end of 1975. We are asked to wait, but I see no hesitance on the part of the huge foreign harvesting fleets off our shores. Our fisheries decline, their efforts increase, and they want additional time for "just one more conference."

We are told now that acting unilaterally is somehow "improper." International lawyers, however, view the law of the oceans as a process of "continuous interreaction; of continuous demand and response," a developing system whereby unilateral claims are put forward, the world community weighs the claims and then such claims are either accepted or rejected. National law, on the other hand, is usually a combination of statute and court practice. In international law, the court can obtain jurisdiction only if the parties submit themselves to it. Few disputes of magnitude, therefore, are tried before the International Court of Justice.

Unilateral action by the United States is not as new or unprecedented as some would have us believe. In 1886, for example, the United States, citing the right of self-protection, attempted to regulate foreign vessels exploiting fur seals in the Bering Sea beyond its three-mile territorial waters. The Anti-smuggling Act of 1935 granted the President authority to proclaim an area extending one hundred nautical miles north and south from a point in which a suspected foreign ship was hovering and included all waters sixty-two miles from the coast within the area of two hundred miles thus designated.

Shortly after the outbreak of hostilities between Germany and Poland, the United States joined in the Declaration of Panama which established a 300-mile defense zone around the hemisphere. Following World War II, the zone was extended from pole to pole and made permanent by Article 4 of the 1947 Inter-American Treaty of Reciprocal Assistance.

In 1945 the Truman Proclamation on the Continental Shelf announced the annexation of the "national resources of the subsoil and seabed of the continental shelf beneath the high seas but contiguous to the coasts of the United States." This was required, we said, "in the interest of their conservation and prudent utilization."

In more recent times, the U.S.-Brazilian Shrimp Conservation Agreement, concluded on May 9, 1972, may preserve the U.S. position with respect to the 200-mile limit, but we provide that Brazil may board, search and arrest American fishing vessels believed to be violating the agreement, and we underwrite Brazil's enforcement expenses, all within 200 miles of their shores.

S. 1988 may be a unilateral move, but we must be aware that the 200-mile limit is presently more commonly accepted within this hemisphere than is any other outer limit of national jurisdiction. It is the predominant position taken by all nations attending the Law of the Sea Conference and has been for a long time, despite the fact that United States failed to recognize the position until July 11 of this year.

The issue to me is quite clear. We are either going to stand up for the proper management and conservation of the fishery resources off our coasts or we are going to listen to the prophets of doom and concern ourselves about what the rest of the world may say about us in the continuing Law of the Sea forum. I do not believe—and I base this on many years of experience in dealing with the rosy optimism of negotiators—that the United Nations will reach agreement on the Law of the Sea in 1975. S. 1988 clearly provides for negotiations with those who are presently fishing offshore and I fail to see the confrontations which the Defense Department is concerned with.

The United States position at the Law of the Sea Conference is now almost identical to that expressed in S. 1988. The only question is time, and we are already late in looking to our responsibility to protecet these resources. I urge this Committee to follow the position taken by my Senate Committee on Commerce and report the bill favorably.

The CHAIRMAN. You are really familiar with this issue and you are our expert to a degree on it. I expressed an interest in it yesterday from the standpoint of the fishing industry involved in my own State.

Senator MAGNUSON. Yes.

The CHAIRMAN. And I am not trying to cross-examine you, but how will this help our fishermen?

Senator MAGNUSON. It will allow us to make rules to fish within 200 miles of our shores, and it will also allow us in certain cases, if we wanted, to make an agreement, say, with Japan on some salmon that they may want. And it would also allow Canada protection from foreign fleets which come in willy-nilly, without conservation, and deplete our fishery stocks.

The CHAIRMAN. You would not let anyone come in unless the Federal Government made an agreement with them?

Senator MAGNUSON. That is right. In some cases we might. Joint fishing, if conservation is practiced, is not too serious. The ocean resources should be managed just like timber. You have timber management in Mississippi and other places, and in Maine. The oceans can provide sustained yield for one-third of the world's supply of food if we just handle it right, and not let them—the Japanese do not practice any conservation. Fifty years ago, 70 years ago, the best fishing grounds in the world were around the islands of Japan. They are gone.

That is why they have to come over and fish in our waters. I think we better do something about it. If they come to an agreement, if some miracle happens in Geneva on fisheries, we will immediately say thank you, amen, this is a temporary bill. That is all.

The CHAIRMAN. Let me ask you one or two other questions now. And by the way, we tried to stir them up here yesterday, the State Department, and they said they were going to move right in and do something about this matter. But how long have you been working on it now, how many years?

Senator MAGNUSON. I attended my first conference in Geneva in 1953.

The CHAIRMAN. And you have been off and on it ever since?

Senator MAGNUSON. Yes.

The CHAIRMAN. What about the situation here if we extend ours out to 200 miles that these other nations claim we have no authority to do that and so forth, it is unlawful, illegal and so forth and will lead to a possible confrontation out there? What would be the situation?

Senator MAGNUSON. That is not unusual for fishermen. We have it down off the coast of Peru, and Ecuador and Chile.

The CHAIRMAN. I have read about it here in Virginia and Maryland.

Senator MAGNUSON. But we do not have a situation like that. That is a peculiar situation in the oceans of the world where that cold stream comes up and meets the warm stream and it comes right close to their shore, very close, and that is where the big fishing is.

The CHAIRMAN. What is your idea of enforcement? Someone has said to me that the Coast Guard could not possibly be of any appreciable service in this, it could not cover the ground. What is your response?

Senator MAGNUSON. The Coast Guard can enforce anything they want, and if they need a little extra money to enforce this, why, they could get it. They enforce 12 miles now and they can enforce 200. They may need two or three more ships, but we can handle that, if they need it; and I think, the nations will respect this. Once in a while we have a fellow that drifts in to our waters and says he lost his compass and did not know where he was and that sort of thing. But we can handle that. Alaska does it.

The CHAIRMAN. I do not want to keep you any longer if you have to go.

Senator MAGNUSON. No, there is no problem.

The CHAIRMAN. Thank you for testifying.

Senator MAGNUSON. We may have to beef up the Coast Guard a little bit obviously, and the Commerce Committee, when they pass this bill out, knew what they had to do because they are responsible for the Coast Guard.

The CHAIRMAN. We thank you very much.

About this testimony from the fishery people and the associations, I want to add one point. We would like them to send in their written testimony in advance, so the staff can work on it while we are gone. So, if the staff will let them know and make that request.

Senator MAGNUSON. I want to add just one sentence. Some of the fishery people, the tuna people, are out in the South Pacific. They

have a loose agreement. Nobody pays much attention to it. They might oppose it, but it is all based on fear, fear of what somebody else is going to do. And I am getting tired of this country not taking care of things that they should take care of because they are afraid of some other country. Japan is going to get out of the treaty, our salmon treaty or something. Japan has bigger fish to fry than this, I will tell you that.

The CHAIRMAN. All right, Senator. Thank you very much.

Senator Muskie, I will call on you next, if I may.

STATEMENT OF HON. EDMOND S. MUSKIE, U.S. SENATOR FROM MAINE

Senator MUSKIE. Thank you, Mr. Chairman.

First of all, may I say that Senator Magnuson covered the ground very well and to the point on this question.

But on this question of enforcement and whether or not we have a 200-mile limit established unilaterally, or by international treaty, we still are going to have enforcement problems. So, the question of whether or not we could enforce a unilateral 200-mile limit is a red herring as far as I am concerned. No international force is going to be created to enforce the 200-mile limit set by an agreement. We are going to have to do it, so that if we are looking toward that kind of national or international policy, the enforcement problem is the same, and so it is simply not relevant to this discussion as far as I can see it.

I discussed this with the Coast Guard and they agree with me on that point.

I would like to make some points which emphasize some of the points Senator Magnuson made. The first one is this one, and I speak from the point of view of a New Englander, that fishermen on both our east and west coasts are losing the livelihood of generations because as a nation we have not responded adequately to global developments in recent years. In the last decade, as we allowed our fishing industry to sink to the lowest estate in our national priorities, as we have, the fishing efforts of foreign fleets off our coasts have increased severalfold. At any given time, large groups of foreign vessels can be sighted off our shores. This is true off the 4,500 miles of Maine's coastline as well as other areas of our coast. In fact, the world's fishing effort is now so much greater than a decade ago that stocks can be decimated in a season or two, a rate much too fast for international negotiations to cope with.

There is clearly an urgent need to protect our offshore stocks. But may I say that protecting these stocks is something more than a regional or a national interest. It is of global interest. If the United States does not take effective short run action to protect the fish stocks of our coasts, who is going to do so? The Russian fishing fleet? The Japanese fishing fleet? There is no evidence to suggest such restraint on their part. Indeed, most of these countries will protect their own offshore stocks, if they have any left to protect. And they will protect them against us. But, who is going to protect our offshore stocks?

There are at least 25 species including haddock, herring, mackerel, shrimp, yellow-tailed flounder, and halibut which are now depleted or threatened with depletion. Are America's or the world's best interests really served by our waiting a couple of more years for diplomats to negotiate a comprehensive interenational oceans treaty before any meaningful steps are taken to preserve our offshore stocks? I think not. And I believe an increasing number of Members of Congress agree.

I would like to emphasize, as Senator Magnuson did, that nothing in the 200-mile fish limit legislation is inconsistent with our negotiated position at the new United Nations Law of the Sea Conference. It is a position fully supported by the Department of Defense. In a statement before the Caracas Conference this summer, which I was privileged to attend with Senator Stevens, Ambassador Stevenson, head of our delegation, said this country is, and I quote:

> Prepared to accept and, indeed, would welcome general agreement on a 12-mile outer limit for the territorial sea and a 200-mile outer limit for the economic zone, provided that it is part of an acceptable, comprehensive package.

The U.S. position accepts the concept of 200 miles for fishery managment jurisdiction. It also accords with the two other fishery management proposals contained in the bill before the committee, that management of anadromous species, such as salmon, are handled by the nation in whose river they spawn, and that the management of migratory species, such as tuna, be handled through international commission. So on that, both the U.S. position and this bill are on all fours on those points.

The key Defense Department objection to this bill rests then not on any substantive objection to its provisions. Rather Defense is worried about the possible reactions of other nations to this step for it seems to believe, judging by General Brown's testimony yesterday, that if United States enacts this legislation, others will automatically abrogate unilaterally our rights of free transit, overflight. In other words, they anticipate punitive reactions on the part of nations they tell us are, on the other hand, negotiating with us in good faith to establish just this kind of a regime.

As official advisor to the U.S. delegation, I attended the meetings in Caracas this summer and talked with many foreign delegates. In none of my conversations was there any indiction that the major nations of the world would react to our passing such a bill by immediately ending our rights of free transit and overflight. It is true that in some of these talks foreign delegates expressed reservations about America's enacting unilateral legislation, but my best guess is that their first reaction, after denouncing the legislation would be to negotiate at the next session of the U.N. conference with a new sense of urgency. It is important to remember that this legislation will not prohibit other nations from fishing in the 200-mile zone. In fact, it would preserve the right of nations which have traditionally fished off our shores, but it would reserve the right to the United States to manage our offshore fish stocks to assure their best and most prudent use.

So, Mr. Chairman, and members of this committee, the bill differs from the official U.S. position in only one respect. It recognizes the

urgency of today's situation and mandates immediate interim action to regulate and conserve our offshore fish stocks. That is precisely why I am supporting this bill, and why I urge you to do the same.

May I relate to you in closing a conversation I had with one of the Russian delegates and the Mexican delegates and others at a luncheon the last day I attended the conference. They pleaded with me to urge the Congress not to proceed with this legislation. And I made two points. I made them specifically to the Russian delegate. I said I have observed how your country undertakes to protect your national interests when you see them jeopardized and I have never seen you reluctant to be hardnosed about those interests. What I am saying is that we are hurting, so with respect to our offshore stocks, we are being hardnosed. If the Congress enacts this legislation, it is precisely for that purpose. We in the United States can never seem to persuade other nations when we are hurting. There is the tendency to believe that the United States is so big and so powerful economically that we can take these insults and not be hurt. What we are saying in this case is that we are hurt.

The second point I made to the Russian delegates and the Japanese delegates is this. I said you have created this problem for us off our coasts. If you are really that concerned about preserving this negotiation, and if you are really concerned that the unilateral action by the United States might jeopardize this conference, then I suggest unilateral action that each of you could take, and that is to exercise restraint with respect to fishing off our shores until this conference has concluded its work. If you would exercise that unilateral restraint, then the Congress might be willing to exercise a similar restraint. But in the meantime, we intend to do this. This does not touch freedom of passage, it does not touch the straits problem, simply it is an effort to indicate to the world that we are concerned in our own interests and in the world's interests with the depletion of stocks that are important to future world supplies of protein.

So I think on all counts we are justified in moving ahead. And may I finally say how much I appreciate the participation of Senator Stevens, who is here this morning, in that conference in Caracas. He made a notable contribution. He knows this subject and I commend his testimony, which I have heard several times on this point.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator. I am impressed with your remarks.

Senator McIntyre, do you have any questions?

Senator MCINTYRE. I would like to ask Senator Muskie a question if I may, Mr. Chairman.

The CHAIRMAN. All right.

Senator MCINTYRE. First of all, Senator Muskie, and your preceding witness, the chairman of the Commerce Committee, you had excellent testimony which I find very, very warm and receptive as far as this Senator is concerned. Yesterday we had a Mr. John Moore of the State Department here. In answer to a direct question that I put to him about the success of this conference on the Law of the Seas I asked him when he thought that it would come to fruition and a treaty

would be agreed upon, and he said 1975, next year. I intimated that I thought he was very optimistic, being very optimistic, but he held to his guns. Would you be willing, and I will ask Senator Stevens after his testimony, to give us some idea of when you think from what you saw at Caracas that there is a reasonable chance of the Law of the Sea Treaty coming to a conclusion and being ratified and approved by all of the various member nations?

Senator MUSKIE. I do not believe that it is going to happen, and the chairman of the conference publicly expressed his reservations about that possibility. Another delegate from his country in assessing the work in Caracas put it this way: He said all we have done this summer with all of our talk is to identify how far apart we are. We have done nothing about closing the gaps.

Having said that, may I say that I was more impressed than I was prepared to be that there are some very positive prospects that those 149 nations may eventually agree on a new Law of the Sea regime. But the problem is enormously difficult and complex. There are between 90 and 100 major issues. Sixty of the participating nations never have attended a conference on this subject before. They have not yet developed their own national positions on all aspects of the problem. Mind you that you have three separate areas of concern. The conference broke up into the three committees, the first having to do with the mineral resources of the deep seabed, and that is beyond the 200-mile limit, and this involves all of the developing nations and a lot of the landlocked nations, all of them countries who feel that the world's resources have been exploited too long by the industrial nations and that they must establish their claim and their interests in these deep seabed resources at this point if they are ever to do so. In order to resolve that issue alone, time is going to be required.

The second committee had to do with the Continental Shelf and the mineral resources and the fishery resources within the 200-mile limit. Here I think there was progress, more progress toward a concensus than in the others. In other words, I think that the 200-mile limit is developing support, pretty broad support, but within that 200-mile limit there is a great deal of disagreement or potential disagreement as to what the substance of the 200-mile limit will be. What will happen to the mineral resources? Are the developing nations entitled to share in those, or in the resources of the Continental Shelf beyond 200 miles? That is a very critical issue and that is not going to be resolved quickly.

Second, what do you do about the anadromous species like salmon? We have a position but we have not sold it yet to the other nations. What do you do about migratory species like tuna? That has not been resolved yet, and that is going to take some time. So, even between committee two there is a clear outline of what will ultimately be agreed upon, but there are still problems to be resolved.

Then the third is even more difficult, and that is what do we do about pollution of the ocean? Who is to have control, what standards are to be set, and that all has to do with the authority that we create in coastal states, flag states, states of national origin with respect to pollution by tankers and other vessels, as well as other forms of pollu-

tion. That involves jurisdictional decisions, but not only with respect to the 200-mile zone or of the territorial sea, but also the wide open ocean. Those are difficult issues.

I think that there is a very strong feeling in the conference that it must succeed, but that does not mean that it will succeed this next year. I cannot see any prospect that in the Geneva meeting, which begins in March, and will surely not extend more than 8 or 10 weeks, that you are going to bring all of this together. I really do not believe it. I think what we are talking about realistically is another 2 years of jeopardy to our local coastal fishery stocks, and that time is critical.

Senator McIntyre. Would you clarify in my mind some testimony yesterday which referred to a ruling, I believe it was by the world court, which seemed to impinge upon Iceland's difficulties that it had with the British trawlers. Are you aware of that, or could you tell the committee anything about that world court ruling, and what that difficulty up there was, and how it was resolved?

Senator Muskie. It was related to—I do not know the opinion. I am not a practicing lawyer in any case at this point, never was a practicing world lawyer. If I had been, I would not be here. That looks like a pretty profitable business. But, in any case, the issue was an attempt wholly on the part of Iceland to enforce, I think it was a 200-mile or a 50-mile limit, and that does run into questions.

Senator McIntyre. Excuse me, was that a territorial exclusion limit that they had, or was it more of a management, conservation type that we are talking about?

Senator Muskie. Let me ask Senator Stevens to answer that.

Senator Stevens. That is a so-called cod war, Senator McIntyre. It is my understanding of that recent decision that it places in serious question the right of Iceland to a certain exclusive, exclusionary authority in management field, which differs from what is in this bill which permits foreign fishing in our areas under specific controls, of course. But, this is not the same as the Iceland approach which sought to specifically exclude the British fishing fleet from their banks.

Senator Muskie. I would add something to what Senator Stevens has said and, you know, it is at the heart of this legislation, that it is a conservation problem, it really is. It is related, of course, to the rights of our fishermen. But, conservation of these stocks in terms of world need for food is critical, and at the moment nobody has any responsibility for it, and nobody undertakes conservation practices. Until we begin that, you know, the waters off our shores are now among the world's most important fisheries, and somebody has to exercise authority to conserve it.

The Iceland thing, it was probably too exclusionary, but I have no opinion on the application of that world court opinion to this legislation. I doubt that there is any.

Senator McIntyre. One last question about the testimony yesterday. I think it was mixed testimony of Defense and State, and in back of you is a map that sort of brings out one of their difficulties. They say that our unilateral action will bring a reaction and overreaction, perhaps aggressively further than we extend, and it will affect overflights, and it will bring about confrontations. They point, I think, to

the Mediterranean there on the right hand side, and there points up the difficulty. You see that it is all colored in, and if you extend the 200-mile limitation to all of the nations that surround the Mediterranean, it is all colored in, and what is the answer to this question which seems to bother State and Defense considerably?

Senator MUSKIE. There are three points, perhaps, that I can make. One, that the straits question is involved in the 12-mile territorial sea which is now pretty broadly established, and it has not been resolved, the right of free passage, and surely it is involved in the 200 miles. But, we are not asserting territorial rights. This bill does not assert territorial rights out to 200 miles. And just to assume, just to assume that other nations' reactions will be punitive, and they will undertake to establish territorial sea rights out to 200 miles all across this globe, in the face of the fact that they are meeting at the Law of the Sea Conference to avoid that kind of thing to me is naive. Sure they are going to be upset, some of them. Not all of them. West Germany will be because she is fishing within not only our 200 miles but our 12-mile limits on occasion. So the states which have foreign fishing fleets will be upset, but not the others.

With respect to the reaction that will follow the establishment of the 200-mile limit, what is it, about 30 countries now have established the 200-mile zone.

Senator STEVENS. Twenty-six, I think.

Senator MUSKIE. Twenty-six or 30, and that has not precipitated the kind of global reaction that the Department of Defense predicts will follow this legislation. I think other nations are going to recognize this for what it is. The United States is hurting. The other day we took unilateral action on exports of corn and wheat, something of a departure from our traditional free trade practices. That has not triggered protectionism around the globe. It is understood. The assertion of a national interest is understood by every nation on this globe today, and if they are really interested in international regime, then they would not have met as they have unless they were interested. I doubt that this assertion of national interest and conservation is going to trigger that kind of reaction.

Senator MCINTYRE. Did you want to add something, Senator Stevens?

Senator STEVENS. As far as triggering reaction, I share Senator Muskie's opinion and that of Senator Magnuson, that countries that are going to be affected by this action will not take any action following. They are specifically the nations that at the Law of the Sea Conference are seeking the narrow concept of limiting any jurisdiction, whether it is over fishery resources or anything else. Russia and Japan, for instance, have taken the position that it is contrary to the concepts that we are supporting at the Law of the Sea Conference. They are fishing off our shores. They fish off the shores of the State that Senator Muskie represents and you represent, and my State, which is half the coastline of the United States, we have fantastic foreign fishing fleets. Those fishing fleets come primarily from Russia and Japan. They are not going to retaliate against us. I think they are going to come in and want to have a bilateral treaty, which this bill specifically provides for, in order to protect their rights to the fishery resources that we are willing to let them harvest.

For instance, in terms of fishing for Alaskan pollock, they have been taking about 1 billion pounds of Alaskan pollock out of the Bering Sea in the North Pacific for the last several years. We are not harvesting that species to any great extent, but the manner in which they are taking it so depletes the halibut stocks that we find they are taking more halibut incidental to their catch of pollock than the Canadian and the U.S. halibut fleet can take intentionally under the quota system that we thought everybody agreed to. As I point out in my statement, we are now in the position where we only have 14 halibut boats which went out this year. Incidental catch by them exceeds our total quota that we agreed to as far as the limits of good conservation practices. We have tried to get the Japanese not to fish for pollock at the time the halibut come over the edge of the continental shelf. They could just for a period of a few weeks have missed most of the halibut as they start migrating inshore. Most people do not realize that halibut migrate tremendous distances, but they refused to do so, and with their bottom techniques they literally vacuum the bottom of the ocean. We are taking steps to try to prevent that, but they are not going to retaliate against this. They cannot and still have any access to our shores, because I think we have other means of tightening down the screws if they will not go along with this, which I think is a very modest interim measure for conservation purposes. I think we have a greater mechanism available to us to take unilateral action, and I think we could succeed.

Senator McINTYRE. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, gentlemen. This is very important and very interesting. You are getting me deeper in the ocean than I have ever been.

I have just been advised that at 11:30 we will have a vote.

Senator MUSKIE. Mr. Chairman, could I submit a statement by Senator Pell?

The CHAIRMAN. Yes. Without objection. I have a question I want to ask you, please.

Without objection, the statements here by the Senator from Washington, Mr. Jackson, and the Senator from Rhode Island, Mr. Pell, will be included in the record at this point.

[The statements follow:]

STATEMENT BY SENATOR CLAIBORNE PELL ON S. 1988 FOR THE ARMED SERVICES COMMITTEE

Mr. Chairman, as a member of the Foreign Relations Committee and Chairman of its Subcommittee on Oceans and International Environment and a concerned conservationist, I am a strong supporter of S. 1988. It is an interim, emergency measure designed to safeguard our coastal fish stocks from devastating depletion.

As a long-time member of the United States Coast Guard, keenly aware of the role that U.S. Naval forces play in assuring our national security, I fully recognize the strategic necessity of the unrestricted passage of those forces through widely defined international waters and straits.

As an earnest and early advocate of the establishment of an orderly regime for the world's ocean spaces through international agreement, I know that this regime must ultimately rest on the multilateral consent of the family of nations.

After careful study of the provisions and safeguards of S. 1988, I am convinced that it is not incompatible with any of these three considerations—interim U.S. fisheries management to meet a conservation emergency within a 200 mile zone off our coasts, freedom of passage for our military forces and an international agreement on the law of the seas.

Let me briefly comment on each of these considerations.

That our traditional fishing grounds are being severely decimated by large scale fishing techniques of foreign fleets is widely recognized even by opponents of S. 1988. Consequently, an emergency situation has for some time faced the U.S. fishing industry, especially in New England. The U.S. share of coastal catches has fallen precipitously in Atlantic waters; haddock stocks may have passed the point of no return; herring, menhaden, yellow-tail flounder and halibut face a similar fate. International fishing commissions have failed to bring relief.

What is required to meet this emergency is U.S. fisheries management within a 200 mile zone applicable to foreign and domestic fishermen and based on sound conservation principles. S. 1988 will make this management possible *ad interim* before there are no fish stocks to preserve.

Opponents of S. 1988 keep asking our fishermen to wait for multilateral agreement on the extension of a 20 mile zone. Rhode Island fishermen, American fishermen, have long been patient.

But further waiting for something just around the corner dooms their livelihood. Why round the corner to find nothing there? And further inaction may subject the United States to an irreversible loss.

With reference to my second consideration, S. 1988 is clearly limited in scope to U.S. fisheries management. In no way is it an extension of U.S. territorial waters or an encroachment upon the traditional freedom of navigation. Except for fisheries management, it authorizes no impediment or interference with the legal status of the high seas.

Thus other nations will have no basis for citing S. 1988 as grounds for interference with the passage of our military and commercial shipping through recognized international waters. It sets no precedence for such interference. It creates no confusion as to our position on free passage. It lends no encouragement to creeping territoriality.

Therefore, Mr. Chairman, as a Senator and American citizen as vitally concerned for our national security as anyone in the Executive Branch, I believe that S. 1988 is compatible with the crucial interests of U.S. national defense.

Lastly, S. 1988 is a provisional measure pending multilateral agreement. Where other nations are concerned, it is to be implemented through the treaty process.

No action was taken on the bill prior to or during the Law of the Sea Conference at Caracas. At that Conference, the United States' position on the need of an ultimate multilateral agreement on fisheries management and conservation was forcefully put forward. All nations are now aware of that position. As an interim, provisional measure, therefore, S. 1988 does not reverse that position, pull a rug out from beneath it, or eliminate a bargaining chip at the Law of the Sea casino.

At the Conference, there did emerge a strong concensus in favor of the establishment of a 200 mile economic zone to include reasonable fisheries management. S. 1988 provides just such management, including accommodation for traditional foreign fishing fleets.

Although unilateral in character, S. 1988 merely foresees future multilateral action in order to meet an immediate crisis for U.S. fishermen. Indeed, S. 1988 may well prove to be a catalyst in expediting desirable international agreement. Therefore, Mr. Chairman, as a Senator who places the greatest store on the successful outcome of the Law of the Sea Conference, I believe that the passage of S. 1988 will not dim the prospects for that success.

In view of these considerations, Mr. Chairman, I strongly urge favorable consideration by the Armed Services Committee of S. 1988.

STATEMENT OF SENATOR HENRY M. JACKSON, BEFORE THE SENATE ARMED SERVICES COMMITTEE ON S. 1988

I welcome this opportunity today to state my views on S. 1988, the Emergency Marine Fisheries Protection Act of 1974. I have been a cosponsor of this measure since its initial introduction by my colleague from the state of Washington, Senator Warren G. Magnuson, Chairman of the Senate Committee on Commerce. Today, I wish to offer a few thoughts on S. 1988 and to respond to the objections to the bill raised from the standpoint of national security.

In the first place, the threat to fishery stocks off our shores is very real. There is almost no disagreement whatsoever that many of the most valuable stocks of fish off our shores are in a state of depletion. Furthermore, most of this depletion may be directly attributed to massive foreign fleets operating in fishing grounds near our shores.

In contrast, the opposition to S. 1988 as expressed by this Administration may be real, or it may simply be perceived. It has been stated that the only effective solution to our fishery and other oceans problems is a comprehensive treaty on the law of the sea. It seems to me however, that it would not behoove the United States to put all of its eggs in that one basket. We should understand that fisheries matters have been the major concern of international law of the sea for some time now. Other issues are relatively new and have not developed the long-standing experience which has come from multi-lateral, bilateral, and even unilateral actions on fishery problems. Looking back on our fishery experience we can see that international negotiations and agreements have not achieved their basic goal; protection of the stocks of fish jointly fished by several nations. This is substantiated by the fact that *all* of the stocks of fish off our shores presently considered by scientists to be depleted are the subject of one or more international agreements.

In these days of extremely tight food supplies, the steady supply of fish is an important swing item in keeping the price of food down. Although protein from fish plays a much greater role on other nation's diets; the need to import foreign caught fish has created a national adverse balance of payments of 1.3 billion dollars. This is an indication of the little known fact that reliance on foreign caught fish supplies plays a very large role in our overall food diet. This fact I find quite ironic in that some of the most productive fishing grounds in the world are located within 200 miles of our shores. Overfishing is a very real national dilemma, from the standpoint of the consumer as well as the coastal fisherman.

What about the objections to S. 1988? Are they real or perceived? It is said that passage of S. 1988 would serve to destroy the Third U.N. Law of the Sea Conference presently underway. However, those who have attended sessions have informed me that the real problems of the Conference are the sheer complexity and number of the issue to be settled, and the extremely difficult problem of getting 150 nations, most of whom have become independent only in recent years, to agree on these many issues. To say that S. 1988 will cause other nations to back out of this attempt at international agreement simply overestimates the impact the U.S. has in that Conference. S. 1988 reflects the general thinking of almost all coastal nations at the Conference. It is difficult to understand how one can say that the U.S. is destroying the Conference when it is merely adopting a fisheries provision which the majority of nations would soon adopt anyway.

It is further claimed that unilateral action by the U.S. is certain to trigger broad unilateral claims by other nations. While this may be possible, the real question is whether it is probable. I believe that past international actions will show that nations do not always follow other nations' unilateral claims. In this regard, I would cite the Canadian decision to declare a 100 mile pollution zone in the Arctic Ocean, United States action to quarantine Cuba in 1962, and the requirement by our own Coast Guard to bar any vessels carrying liquified natural gas, U.S. flag or not, from entering U.S. ports unless they are constructed to Coast Guard standards. All of these actions have not been followed by automatic and indentical actions by other nations.

If indeed a coastal nation feels certain action is in its interest, it is similar. Furthermore since S. 1988 probably has the general consensus of the world, other unilateral actions which do not enjoy such general consensus certainly would not receive world recognition and we would be proper in opposing them. This is most definitely the case with actions impeding free transit through international straits.

Finally, there is absolutely no firm proof that other nations will indeed interfere with our passage and overflight rights through coastal water or straits. It seems to be in the interest of every nation to assure that free passage or unimpeded transit remains the basic rule of international law. All Nations, even coastal ones, are either consumers or producers, and to unduly hinder transit would be economically detrimental to their own interests.

It has also been stated that unilateral extension of U.S. fisheries jurisdiction to 200 miles could lead to serious confrontations with the Soviet Union or Japan. The so-called "Cod War" between Iceland and the United Kingdom is cited as

an example. In precipitating this "Cod War", Iceland totally excluded fishermen from the United Kingdom in their claimed 50 mile zone.

In contrast, S. 1988 does not automatically or completely eliminate foreign fishing in the 200-mile zone. It preserves all existing treaty rights to fish and would recognize traditional fishing rights of foreign nations who, for an extended period of time, have fished off our shores. The general impact of S. 1988 is to begin negotiations with these nations and to develop a method for controlling the overall fishing effort while giving our nation preferential rights. The recent International Court of Justice opinion in the *Iceland* v. *United Kingdom* case recognized the concept of coastal nation preferential rights in fisheries off its shores. Under these circumstances, it is difficult to understand how one can say that S. 1988 will lead to serious confrontations with other nations.

In closing, I would simply like to note that S. 1988 is an evenhanded reaction to the very real problem of fisheries depletion. It seems somewhat unfair that the problem, which has received the most international attention and for which international forums have not achieved a satisfactory solution, should be held captive by other relatively new issues and by unsubstantiated fears held by other special interests. Unilateralism is not the best policy, if other workable options are open, but indeed it is a viable option and has always been an option recognized in international law. If the other options will not achieve desired and fair results, balanced unilateral action in tune with world opinion must be seriously considered. S. 1988 does not address itself to any question but fisheries. It essentially preserves all other high seas rights in the area claimed. It allows innocent passage, does not interfere with straits, and it certainly does not, in any indentifiable and real sense, adversely affect our national security interests.

Thank you.

The CHAIRMAN. Senator Muskie, I am going to be very brief. The point was raised here yesterday about the passage of this bill would make more remote or less likely our chances to get this agreement that we talk about, this Law of the Sea agreement and so forth. What is your rock bottom response to that point? Is it less likely or more likely?

Senator MUSKIE. I think more likely. I think more likely, and let me give you my reasons.

The 10 weeks at Caracas was used largely by nations to assert their national interests. I will tell you that they did it very eloquently and very effectively, and the record is replete with that, so everyone of them understands now that each nation present, the powerful as well as the others, have national interests to protect, and that is why everybody is gathered there. I think that this action, if it is clearly understood as being conditioned upon the enactment of an international agreement, will convince other nations that we are interested in an international agreement, that we are not playing games, that we are interested in working the issues out. This bill is consistent with our position at Caracas. This would I think back up our delegations position to indicate that the Congress supports the position that has been presented by our delegation at the conference.

I think it would add momentum. And if every nation there is concerned that what may lie ahead of us is anarchy, then the reason they are there is to avoid that anarchy. And this action by the United States I think would stimulate them to an understanding that the quicker that they act the better everyone will be. I just do not believe that this would delay it. I think it would accelerate it.

The CHAIRMAN. I want to get to Senator Stevens when he speaks to cover that same point.

One other matter there now, on the map over there. Glance at it. You see Africa and Europe, and they make the point there about taking up the whole Mediterranean, those 200 miles would, and it just

covers the whole area there. If you act on all sides, you see, that would completely dominate all of the area, as it would many other smaller areas. I would just say what difference would that make, in your opinion, and would that jeopardize our naval activities there, and if so in what way, or if not, why?

Senator MUSKIE. That chart represents argument by horror story, and not an unfamiliar argument around this town, and especially in the Department of Defense. If what we were talking about is establishing a 200-mile territorial sea, and if we were to assume that if we did that, established a 200-mile territorial sea that every other nation on earth would act unilaterally to establish a 200-mile territorial sea, then, of course, that map then would be relevant. But, that is not what we are talking about. We are talking about simply a conservation bill that has nothing to do with rights of passage, nothing to do with the assertion of sovereignty out to 200 miles. It is simply a conservation measure to protect coastal fishing stocks wherever they are. If other nations feel they need to protect their coastal fishing stocks, I would certainly understand their concern. But we are not talking about that, and that is simply, totally irrelevant to this bill.

The CHAIRMAN. You gentlemen certainly show a fine knowledge of the subject matter, and I am sure Senator Stevens will too. It has been helpful to me as well as interesting to hear from you. It is good to have somebody that knows so much about the subject matter, and it offsets an experience that I had several years ago. I stopped for a red light out there, and I was walking between the two buildings, and two gentlemen were behind me, and one said to the other, suppose we go up and see our Senator. And he said oh, he is not there. He said I saw in the paper this morning that they do not even pretend to come down here until 12 o'clock. The paper said they meet at noon. He says I think when they get out of here they don't even do anything but smoke big black cigars and drink bourbon whiskey. That is what he thought, and he ought to have been here this morning to here you gentlemen testify on what you knew about the subject matter right here.

Senator MUSKIE. Thank you, Mr. Chairman. May I say you have demonstrated your all too familiar interest in the problems of other Senators in other parts of the country, and you do it well.

The CHAIRMAN. We are all in issue in a way.

May I lay before the committee now a bill here on another matter that we have already finished. We have already passed this once but it was lost in conference due to the germaneness rule and it relates to the POW's, merely extending the time allowed for the award of certain declarations and all. I will put it here on the table before the committee, and anyone that comes in, Mr. Braswell, call it to their attention.

Senator Stevens, we are glad to have you here, Sir, and we know you are knowledgeable in this field. We will be glad to hear your written statement or your oral testimony, either way you wish.

STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA

Senator STEVENS. Let me file my statement and have it printed as though I read it.

The CHAIRMAN. All right. Without objection it will be put in the record at this place.

[The statement follows:]

STATEMENT OF TED STEVENS, SENATOR FROM ALASKA

Mr. Chairman, I appreciate having the privilege of testifying today in favor of S. 1988, the "Emergency Marine Fisheries Protection Act of 1974." I believe this interim measure is critically needed to protect U.S. fisheries from oblivion while international conservation measures are being negotiated.

I would stress that S. 1988 only asserts fishery management responsibility of the United States over fish within a 200 nautical mile zone and over anadromous species beyond this 200 mile zone. It does not affect mineral rights, rights of unimpeded passage through, over, and under straits used for international navigation, or any existing relationship under, on, in or over this 200 mile nautical zone besides fishery management.

I have read the testimony of Professor John Moore and General George Brown before this committee, and, I share their concern with the enactment of any legislation which would not be compatible with the security interests of the United States. I do not believe S. 1988 is such a bill. Again I would like to stress that it only affects fisheries management. It must also be emphasized that S. 1988 is an *emergency* measure which would be enacted on an interim basis and would automatically terminate when an international agreement on fisheries jurisdiction is ratified or provisionally applied.

Mr. Chairman, already a number of nations have unilaterally extended their territorial seas. This was done before the United States enacted any legislation to unilaterally extend our fisheries zone. I do not believe that enactment of S. 1988 will encourage any further retaliatory extensions of territorial seas from nations not already predisposed to follow this course in any event.

The small nations who might extend their territorial seas in over reaction against a similar measure will not even be affeected by S. 1988. They are not depleting the fisheries resources off the coast of the United States. The nations depleting the stocks of fish off our coast are basically Russia, Japan and Korea. These nations would have nothing to gain by declaring a 200-mile territorial sea in response to S. 1988. The public posture of these nations at the Law of the Sea Conference calls for a narrow zone for fisheries management. These nations fish off many coasts besides that of the United States. It would be illogical for them to extend their fishery management zone or territorial sea in response to S. 1988.

The many issues involved in the proposed legislation were thoroughly discussed before the Commerce Committee during fifteen hearings here and in the field. The Committee overwhelmingly, and on a bipartisan basis, ordered the bill favorably reported. The Foreign Relations Committee ordered the bill adversely reported by a surprisingly close 9 to 8 vote.

Before making the final judgment on this bill, I urge you to review Commerce Committee Report No. 93-1079, and Foreign Relations Report No. 93-1166. Also, I ask you to consider these points: 1) Committee hearings firmly substantiated the emergency need for a conservation management system beyond our present twelve-mile contiguous fisheries zone to halt the ongoing destruction of species after species of fish; 2) existing treaties are ineffective in saving the species; 3) there is no agreement in sight at the Law of the Sea Conference, in which 150 nations, including the major-distant water fishing nations, are haggling over some 80 issues; 4) a well-defined 200-mile fisheries boundary will be more practical for enforcement than the present patchwork of separate treaty areas.

Mr. Chairman, we cannot afford to wait until this matter is solved by international agreement. By then there may be no fish to protect.

A rapid international intensification of effort in fishing has been underway worldwide for more than 10 years. While most resources of the high seas have barely been touched commercially, the exploitation of fisheries has been pushed to and even beyond the practical limit in many regions of the ocean. At least 11 commercially valuable species of fish are already depleted or are threatened with depletion off the coasts of the United States alone. Most of these species have for some years been covered by some sort of international fisheries agreement. From an average annual catch of 700 million pounds in the period from 1952 to 1960, the U.S. catch off the New England coast was cut 40 percent to 418 million pounds in 1969, while foreign catch increased from an annual 7 million pounds to over 1.2 billion pounds in 1969.

As an example of conditions on the west coast, in 1963, the United States and Canada put out 104 halibut boats in the Bering Sea, catching 11 million pounds of halibut. In 1973, the 7 surviving halibut boats caught a total of 167,000 pounds

of halibut. In the same period, the Japanese increased their trawl catch 500 percent and, in 1973, caught an estimated 11 million pounds of halibut incidental to the target catches. In my home State of Alaska, Bristol Bay was this year declared a State and national disaster area because of the depletion of salmon runs upon which the economy of the area depends.

I believe that S. 1988 charts a moderate course for the United States under the present circumstances, and I hope that Congress will act favorably upon it this year.

Thank you, Mr. Chairman.

The CHAIRMAN. I wish you would sum up and point out the main points you want to make.

Senator STEVENS. I want to tell you, Mr. Chairman, and Senator McIntyre, I have read the testimony you had yesterday from Prof. John Moore, a brilliant young man, and we are very pleased that he is involved in these negotiations, and Gen. George Brown. I share their concern about enactment of any legislation which would not be compatible with the security interests of our country, and I am sure you realize that. I do not believe this bill is incompatible in any way with the national security interests of this country. It is only an emergency measure. It does not affect the rights of the seabed, the rights to the surface, the unimpeded free passage, innocent passage. It does not affect the air rights.

All it establishes is a conservation regime to protect the fisheries off our shores. As I have said before, I just cannot believe that the nations which would be affected by this action can in their own self-interest retaliate against us, because they are asserting at the International Law of the Seas Conference positions which are inconsistent with that action, and they are also fishing off other shores, not only our own, but other shores off South America and throughout the world.

I firmly believe that this committee, if it reviews what we have tried to do, and mind you, in the begining many of us were talking about a territorial sea of 200 miles, as we look at the Law of the Sea Conference and have participated in it only in Geneva and in Caracas, and I intend to go back to Geneva and Vienna, however far we have to go to try and assist in getting an international agreement, we believe that we cannot wait any longer. Along with Senator Muskie, I attended these meetings in Caracas, and we were repeatedly told that it takes time, it takes time to bring about international law that is a consensus of the world so that it will be enforceable. We do not have time with regard to our species any more.

There are 11 commercially valuable species that are off our coasts that are already depleted or threatened.

The CHAIRMAN. Do you have the names of those or is it in your statement?

Senator STEVENS. One of them is halibut, and I will be happy to supply them.

[The information follows:]

Commercially depleted or threatened fish species off U.S. shores, referred to in my testimony on page 144, are: Atlantic Haddock, Herring, Menhaden, Yellowtail Flounder; Pacific Mackeral, Sablefish, Shrimp, Yellowfin Sole, Alaska Pollock; and the Halibut of both the Pacific and Atlantic.

Senator STEVENS. In New England, the average catch has declined from 700 million pounds average from 1952 to 1960, cut down to 418 million pounds of fish. While foreign fishing increased in that same

period from 7 million pounds, they used to catch just 1 percent, they have increased now to where they are catching 1.2 billion pounds off New England. In other words, they are catching almost twice as much as our total fleet used to catch in the 8-year period from 1952 to 1960.

I mentioned the halibut boats. We used to send out 104 halibut boats, and we are sending out so few now that they are really not making a perceptible catch, and I doubt that we will have a halibut fishery unless we enact this legislation.

Let me try to address myself to some of the questions you mentioned, Mr. Chairman.

The CHAIRMAN. All right.

Senator STEVENS. With regard to the fisheries enforcement, we in the Commerce Committee and the Appropriations Committee have moved to try and predict the extension, whether it comes about through this bill or through the international agreement, and we have now authorized our Coast Guard to acquire jets. We no longer patrol solely on the surface of the ocean. With our new equipment we can maintain surveillance off our shores with radar, we can establish and identify these vessels, we can even establish whether they are catching fish. I am not sure we can go so far as to indicate what type yet, but I think we are almost there. I am sure that we can identify the gear they use, and if they are using bottom gear off our coasts, they are depleting. As I said, it is a vacuum cleaner method.

From a fishery enforcement point of view, we have had meetings with the Coast Guard, and I will be happy to provide to the committee corespondence with the Coast Guard which indicate that they could enforce this law if it is the national will to do so. But beyond that, I believe, as I said, it is going to trigger the bilateral negotiations that are necessary to protect individual species.

The CHAIRMAN. I was thinking about the Coast Guard. Do you have already a letter from them saying that they can enforce it?

Senator STEVENS. Yes, sir. We have such correspondence.

The CHAIRMAN. Would you make those available?

[The information follows:]

SEPTEMBER 17, 1974.

Hon. TED STEVENS,
U. S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: During the period since I sent you my letter of 14 June 1974, we have modified the coverage approach we are using in our planning for an extension of U.S. fisheries jurisdiction. Cost data has been developed more completely. This letter incorporates and modifies the earlier letter.

The Coast Guard will in the long run be more affected by any regulations actually imposed on foreign fishing vessels than by an extension of the contiguous fisheries zone. Those regulations will probably change from time to time depending upon such things as the status of the fish stocks off our coasts, the availability of protein from other sources, and the harvesting capacity of the U.S. coastal fishing fleet. Probability of violation will vary with such things as the status of fish stocks in other parts of the world, the attitude of other coastal nations toward foreign harvesting of their coastal stocks, and the degree of acceptance of the regulations by the nations whose vessels are fishing off our coasts.

We think that we know where and for what species foreign fishermen are now fishing off our coasts. Enclosure (1) is a composite plot of sightings over a two-year period. The patterns change from time to time and new fisheries are developed, but there is no reason to believe that the active fishing areas will expand dramatically following an extension of jurisdiction. The coastal and anadromous

species are found in areas that are more or less defined. Enclosure (2) is material on fish ranges copied from the sources indicated. The areas are for the most part those where we now have responsibility involving the fisheries under such provisions as:

1. 16 U.S.C. 986. National and international measures of control in connection with the International Convention for the Northwest Atlantic Fisheries. Enclosure (3) shows the area involved which covers the primary fishing areas off the east coast and extends well beyond 200 miles.

2. 16 U.S.C. 1083. Enforcement of the prohibition on foreign taking of Continental Shelf fishery resources. Enclosure (4) shows the area within the 200 meter isobath. The area of enforcement of this provision actually extends beyond that isobath as far as the superjacent waters admit exploitation of the resources and the seabed and subsoil are adjacent the United States. This area covers primary fishing areas off all coasts.

3. 16 U.S.C. 1027. National and international measures of control in connection with the International Convention for the High Seas Fisheries of the North Pacific Ocean. This Convention applies to the North Pacific Ocean and Bering Sea areas that are in some cases more than 200 miles from the U.S. coast.

We think that Mr. Richard H. Philips, editor of Pacific Fisheries Review and The Fishermen's News accurately describes our fisheries patrol effort on all coasts in his article on west coast fisheries in the May 1974 issue of the United States Naval Institute Proceedings.

"The U.S. Coast Guard does a remarkable job of patrolling the West Coast in the areas where foreign fleets operate. Those areas stretch from San Francisco to Kodiak, and on to Adak and include all of the eastern Bering Sea. It is a huge expanse of ocean, most of the year the weather is miserable, and the Coast Guard's surveillance ships and airplanes are spread very, very thinly."

Like any other law enforcement agency, we are uneasy when we are spread "very, very thinly." That spread will become more apparent with an extension of jurisdiction if ony because of increased demand for information on offshore activity within the full range of that jurisdiction. This is likely to be true wthout regard to the regulations imposed on foreign fishing vessels, probability of violation, etc. We have developed a number of coverage approaches, and cost figures are set out in enclosure (5). The figures are based on recent data, but costs are changing rapidly. Assumptions have been made with regard to the availability for fisheries patrols of cutters and aircraft that must also serve other Coast Guard missions.

The cost factors included in the estimates shown in enclosure (5) are those relating to operating, activating, and procuring cutters and aircraft. Operating and procurement costs are based on cutters and aircraft now in our inventory or at such an advanced stage of planning that costs may be determined with a reasonable degree of certainty. Operating costs are those associated with a 12-month period when all the cutters and aircraft required for the enforcement approach are available and operating. This will not be the case immediately upon implementation of any new legislation due to the delays in activating and procuring additional cutters and aircraft required to fully implement the approach adopted.

Two approaches to continuing coverage of a 200-mile zone have been developed simply to demonstrate the costs involved. They serve no other purpose in our planning considerations, and we do not feel that the very large expenditures they require would be in the public interest. The first approach uses a mix of high and medium endurance cutters on stations 60 miles apart along the 200-mile perimeter. A mix of long and medium range aircraft would patrol the zone twice a week. The second approach uses cutters every 400 miles along the 200-mile perimeter on the theory that most violators sighted by twice-weekly overflights could be boarded within 24 hours.

A third approach, which we favor, is based primarily on coverage of known active fishing areas off our coasts. It is presently being used in our planning with full recognition that it and its related costs are subject to many variables. This planned approach would provide various levels of coverage of known active fishing areas in direct proportion to the experienced intensity of foreign fishing activity, i.e. our enforcement efforts would concentrate on those areas where and when the fishing is actually being done. Enclosure (6) presents the experienced variations in that activity over the last few years. In addition, some coverage to the full range of our jurisdiction will be provided to determine if changes in pres-

ent patterns of fishing activity are occurring, to make our presence known throughout the area, and to facilitate apprehension. This approach would be usable with any foreseeable extension of fisheries jurisdiction. It is, in fact, useful now in planning our current effort to enforce our jurisdictional limits, monitor compliance with international agreements, and keep informed on fishing off our coasts.

If this approach were to be fully implemented, we will need to increase our operating facilities by six high endurance cutters, six long range search aircraft, four medium range search aircraft, and ten shipboard helicopters. To operate these facilities will require an increase in our annual operating funds of $47.2 million. The start up, acquisition and reactivation costs are estimated at $63.2 million. Both costs are estimated in fiscal 1975 dollars. Details are shown in enclosure (5). I would like to caution that these cost estimates are determined by both the latest economic trends and acceptance of our coverage concept. For this reason, the estimates must be used with care. If either the concept or the economic trends change, the estimates will have to be adjusted accordingly.

The period immediately following an extension of jurisdiction presents particular difficulties in planning. Added to the unknowns such as the regulatory scheme and the probability of violation, there will be such other unknowns as the positions of various nations with regard to existing international agreements and the U.S. position with regard to any interim period and escalating enforcement measures. The time of year will also be important as demonstrated by enclosure (6). We expect some cutter shortages until the ships we now hold in reserve are reactivated. We also expect significant flight hour shortages until additional aircraft can be procured. Until this occurs, interim provisions will have to be arranged to ensure adequate aerial surveillance. These interim costs are not yet available. It should be noted that they are not included in the estimates shown in enclosure (5).

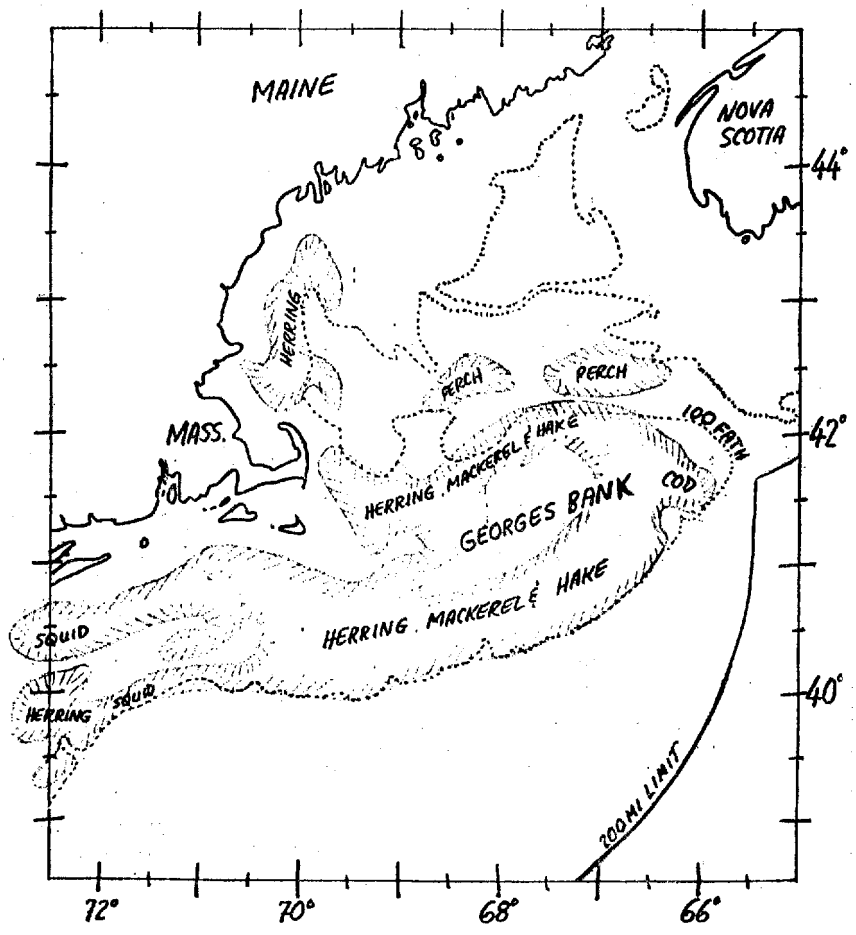
We could respond to any extension of fisheries jurisdiction immediately by using our active inventory of cutters and aircraft to best advantage by limiting safe speeds only as necessary to maintain the desired range of operation without regard to fuel cost. We could also overload our cutter crews for a period of time. If the extension comes within the next two years, we will have in reserve six high endurance cutters and a number of helicopters. The cutters could be reactivated in six to eleven months. The first helicopter could be operational in about six months. Costs of these actions are in enclosure (5).

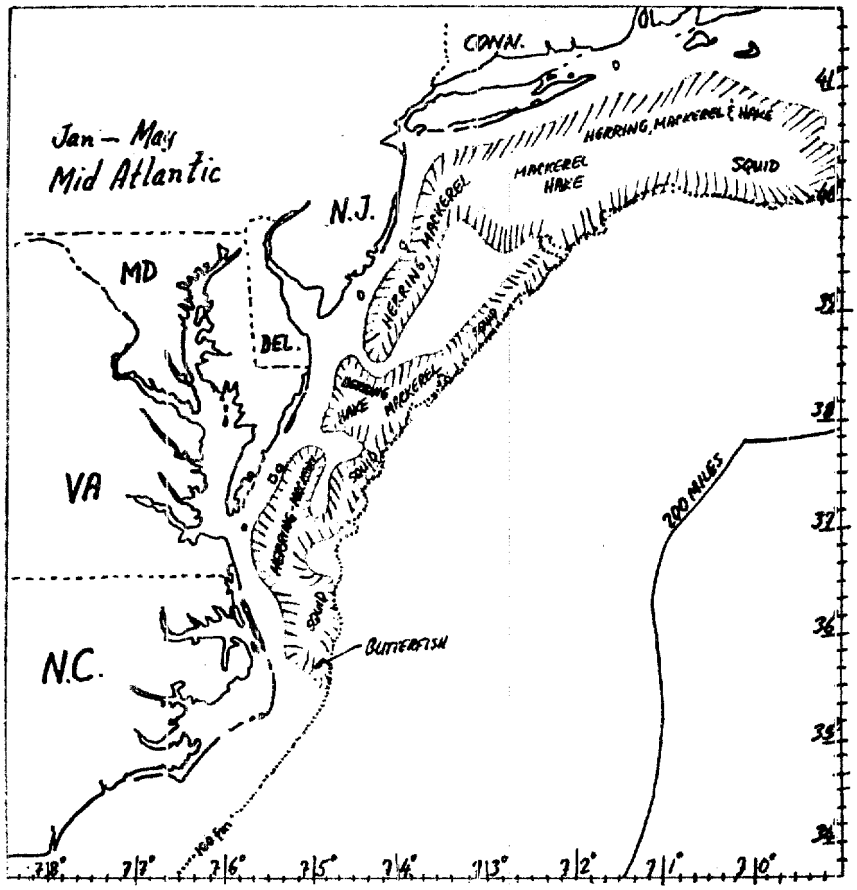
This is a difficult and complex issue which is complicated by rapidly increasing prices. For this reason, I request the opportunity to revise the estimates in light of the latest information available should you find need to use these data in the future.

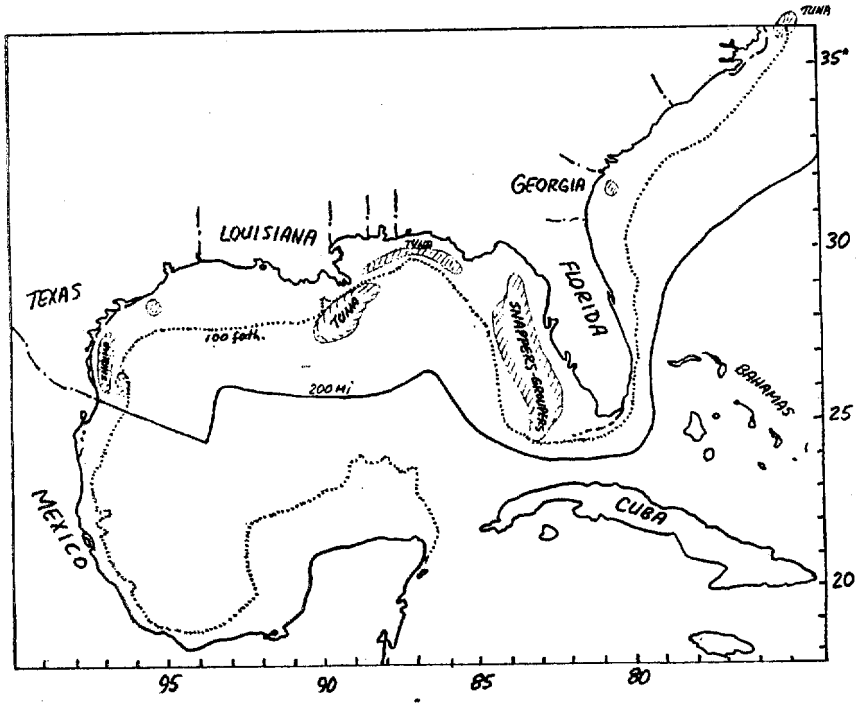
Sincerely,

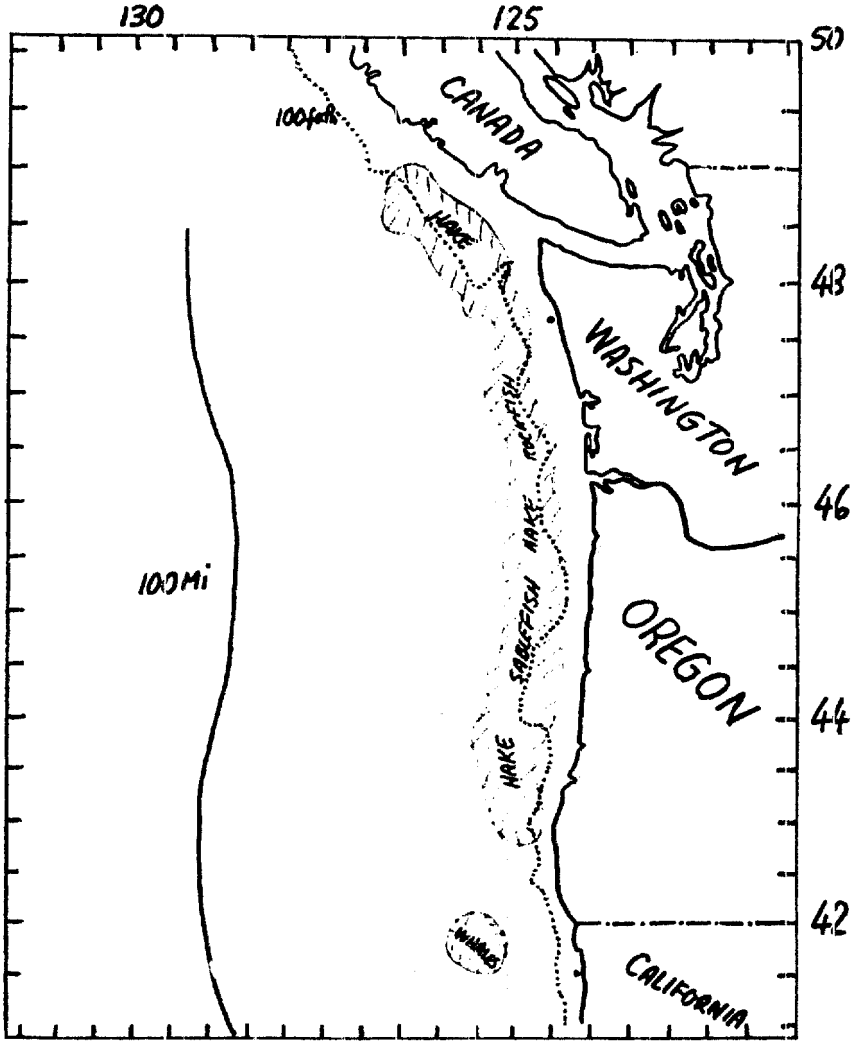
O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

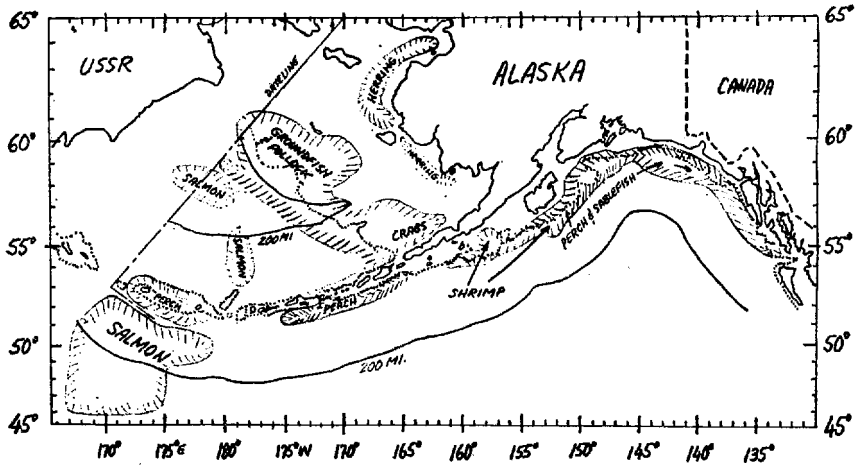
ICNAF SUBAREA 5











Senator STEVENS. I wanted to increase the budget, you understand, Mr. Chairman, in this case if they could not, and they tell me that they can do it with their currently planned equipment, with the jets, the short range or medium range jets that we are going to give them for fishery enforcement, and it will enable this area to be enforced.

The CHAIRMAN. I think the letter is highly relevant, and if you wish to I wish you would send it in.

Senator STEVENS. We will be happy to provide that.

The CHAIRMAN. As a supplement to your testimony, and put it in the record, without objection.

Senator STEVENS. You said what chance is this going to have to deter the Law of the Sea negotiations. In our meeting in Caracas, as Senator Muskie points out, in the main what was heard was speeches. As a matter of fact, as I left, I think I may have been a little bit too abrupt with them. I told them that in the U.S. Senate if all 100 of us had a day of speeches to make, that we would put it in the record and get around to business on the second day. The problem was, as they all gave their speeches, all we heard in Caracas was speeches. There have been no negotiations on the issues. There has been an unwillingness to segregate the issues such as fisheries, or seabed, pollution, and as Senator Muskie indicated, there is very little chance that in 1 year they can accomplish what took 14 years for the last agreement.

Second, with regard to this map, this map is a very interesting map and probably will represent part of the outcome of the water column negotiations of the Law of the Sea. I believe that now there is an international consensus that as far as fishery resources are concerned, a 200-mile limit is the reasonable approach. The holdouts to that are basically the people we are after right now. Basically it is the large, distant water fishing nations that are maintaining their fleets and violating the principles of sound, sustained management that are getting us into this problem, and I do not believe that the Department of Defense should show you this map and indicate to you that the enactment of S. 1988 will in any way bring about this, because this is improper, highly improper. Nothing in our bill affects air rights, nothing in our bill affects unimpeded, innocent passage. Nothing in our bill affects straits. We are dealing solely with the concept of conservation. Mr. Chairman, we have the opportunity as a Senator to start a world movement toward something different than the concept of the territorial sea.

We have the opportunity to enact legislation that establishes a concept of conservation in the interest of the world, of the fisheries, and their resources that are off these shores. The world is interested. I think that without this action we are going to deplete more and more species before we can get an agreement. To me, that would be something that none of us would want to be a party to. We can protect them, and we can protect them and allow these foreign countries to take the species that we are not utilizing, and they can maintain their catch, and we can maintain the balance of our species.

The CHAIRMAN. My reference a minute ago to the Mediterranean, of course, your bill could not apply to the Mediterranean. That is off their shores, and what other countries can in turn do to us, and possibly impede our military operations.

Senator STEVENS. Mr. Chairman, the ones that wanted to extend their territorial sea to 200 miles have already done it. They have already taken that action. This is a unique action in the sense that it is a conservation zone, and not a solely exclusive conservation zone at that. So, if they retaliated to this legislation and established a similar conservation zone in the Mediterranean, I think the world would applaud them. I do not know if you saw the Jacques Cousteau article on the Mediterranean, but it is in severe jeopardy as far as the fishery resources are concerned.

The CHAIRMAN. No; I did not see the article. Do you have one that you want to put in?

Senator STEVENS. We will be happy to provide that for you.

The CHAIRMAN. All right, without objection.

[The information will be provided to the committee.]

Senator STEVENS. And I will be happy to answer any questions.

The CHAIRMAN. Senator McIntyre, I will call on you, please.

Senator MCINTYRE. Thank you, Mr. Chairman.

Yesterday we heard something about confrontation on a military basis. Let me explore with you or just ask you, because it is obvious that you have a long concern with this and that you probably have some sound reasons to not be overly alarmed at this, but we have to admit, Senator Stevens, that in the periods of time which have occurred be-

tween the Soviet Union and ourselves, there are periods of tension, and I can remind you of the Cuban missile crisis, and remind you of the Yom Kippur war of October of 1973. With that background, let us suppose we have a scenario that goes something like this, that off the New England coast a factory ship of the type that I understand that the Soviets use, accompanied by the trawlers, is off there violating our law that we have now passed, S. 1988, and an overanxious captain of a Coast Guard vessel gets in there and puts a hole through the Soviet tanker, or through the Soviet factory ship, and it sinks, despite our best efforts, you know, and 37 Russians are lost. This is the sort of a confrontation that I thought the military was referring to, and taken alone, and without the context of a period of tension that probably would, I hope, be settled without too much difficulty. But what about this, is there any real danger by putting this law together, and putting it on the books of catapulting us into a worldwide confrontation with the Soviet Union?

Senator STEVENS. I do not think so. In the first place, as you point out, it is not the Navy that is going to be involved, it is the Coast Guard, and the Coast Guard to us is the cop on the beat. Today they really enforce the law off our State, as they do off yours, so we probably have more to do with them than any other State, and I would say they are very cautious. Let me point out to you that in 1949 or 1948 we established unilaterally a doctrine of the Continental Shelf, and following that we did not have any confrontation. What we had was negotiation. The Russians came in and negotiated with us, with the U.S. Government, and today they have areas off my State where they can legally fish for king crab, which is one of the resources that we have declared exclusive jurisdiction over, and they do that in exchange for not getting into areas specifically where we believe that they could cause great danger to those species.

Japan has negotiated in areas off our shores, and they negotiated those after the unilateral declaration of the Continental Shelf. We are now in the course of—and I do not know if you know it—we are in the course of articulating even to a greater extent what we mean by Continental Shelf fisheries, and that is something that will come up before we are through.

But as a practical matter, I cannot see a confrontation between the Coast Guard and these vast fishing fleets. They are brought into our courts. Every year there are 10 or 11 of them that violate the 12-mile zone. If they violate the 200-mile zone, I hope they are brought in. There has never been an instance of any military action as a result of these confrontations. They are boarded, they are told they are in violation of the U.S. law, and they are brought into our courts. The State Department is consulted, the Department of Justice is consulted, and they are tried in the Federal courts. And in my visits to Russia last year I found that those captains were more wary of being apprehended and being brought into court, because when they go home, one of their punishments is that they lose their rank, and they really want to, I think, live up to an international code as far as fishing is concerned.

Today there is no code in this area. They can do whatever they want. Therefore, quotas are established for them to bring back to their shores from our fishery resources without regard to the species they deplete.

I would be happy to provide you with a copy of a picture, Senator McIntyre, that shows the deck of a Russian trawler, and on that deck are fur seals, king crabs, 18 or 19 identifiable species of fish, even they were only fishing for pollock, because they were using that bottom trawler and bringing everything up.

One of our doctrines is that they must return to the sea any species that is protected under our current agreement. They cannot, because by the time they get them up they are already dead. So we have let them get by with this on the concept that we have no law to regulate these other species. This is what this will do. Good conservation, sound conservation practices, will be established. I think they will take almost as many fish off our shores under this law, but they will take them on our schedule, in the areas where they will not deplete the species that are in danger, and in a manner to preserve that resource for the future.

Senator McINTYRE. From your long studies of it, I take it that you feel that the opportunity for military confrontation of a serious nature is very remote. Is that true?

Senator STEVENS. I would say it is remote. It is really. The situation as it exists today is greater cause for concern. I had some hearings in Anchorage and Kodiak on the west coast on this bill and would be happy to point out to you in the record of the Senate Commerce hearings where some of these foreign vessels were coming upon our fleets in the middle of the night, unannounced, you know, not supposed to be there, and they have caused great concern among American fishermen.

I think the chances of a confrontation coming out of one of our fishermen ramming these foreign fishermen, or causing an international incident from that, is greater where there is no cop on the beat than there is where there will be, because if we have someone out there enforcing international rules and regulations, I think they will basically abide by them. The offender will be arrested just as the guy that is driving 60 miles on the highway today.

But generally, the fishermen of the world, I think, are fairly good conservationists, but when they are put under pressure by the home office to come home with more and more of our species because there is no control established off our shore, that is the problem, and I think they will live up to this. I think they will urge their government to negotiate with us for good, sound bilateral agreements.

Senator McINTYRE. I think you are probably aware that off the New England coast we have had some examples of ruthless tactics by the Soviet fishing fleet that have caused some of our New Hampshire, and Maine and Massachusetts fishermen to go out loaded for bear, ready to shoot on sight. So that is why I think there is this danger, I suppose, of some confrontation that could lead to a very serious confrontation.

One other further question which you probably can deal with very quickly, but I am just wondering about the Mediterranean with all of these countries agreeing to a 200-mile limit which would involve conservation, and the same policy that we have in mind with S. 1988. And you say, I think as Senator Magnuson said, that this bill encourages bilateral agreements, so I am thinking, that you know, in the

Mediterranean with all of these coastal rights, I am just thinking in the absence of a law or an agreement of a mass intertwining of bilateral agreements between Yugoslavia and Greece, and between Turkey and Italy, and all of this, and I can see the legal entanglement that will drive all of us to become world lawyers.

Senator STEVENS. I think you are right, and that is why we, all three of us, want to emphasize again that we are dedicated to an international agreement. We are dedicated to the achievement of a meaningful agreement on the law of the sea, including the issues that concern the State Department and the Department of Defense. But the only difference is, if you think of all of those 80 to 100 issues that are pending before the law of the sea, you cannot find one other issue where time is going to make any difference. Time would not make any difference over the definition of our air rights, or over our unimpeded right to navigation, or over what happens to the seabed in the removal of minerals. Time makes a great deal of difference to the fishing, and we do not have the time to wait that long for negotiations on the fisheries issues. And that is why we have separated this out. It does not affect this bill before you, does not affect one thing other than fishery management.

Senator MCINTYRE. Thank you, Mr. Chairman. I would like to ask unanimous consent that included in the record at this point would be the decision of the world court on Iceland and the U.K. cod war, so-called, which briefly, and I am paraphrasing, indicates that Iceland did not have the right to unilaterally extend exclusive fishing rights to 50 nautical miles, but it says down at the bottom in the last paragraph of its holding, that in the distribution of the fishing resources in the areas specified in the Icelandic petition, it is entitled a preferential share, to the extent of the special dependence of its people to fisheries in the seas around its coast for their livelihood and economic development.

Thank you very much, Senator Stevens.

Senator STEVENS. Thank you, Senator.

The CHAIRMAN. Thank you, gentlemen. And without objection, that decision will be included in the record.

[The information follows:]

79. For these reasons,
THE COURT,
by ten votes to four,

(1) finds that the Regulations concerning the Fishery Limits off Iceland (*Reglugero um fiskfeioilandhelgi Islands*) promulgated by the Government of Iceland on 14 July 1972 and constituting a unilateral extension of the exclusive fishing rights of Iceland to 50 nautical miles from the baselines specified therein are not opposable to the Government of the United Kingdom;

(2) finds that, in consequence, the Government of Iceland is not entitled unilaterally to exclude United Kingdom fishing vessels from areas between the fishery limits agreed to in the Exchange of Notes of 11 March 1961 and the limits specified in the Icelandic Regulations of 14 July 1972, or unilaterally to impose restrictions on the activities of those vessels in such areas;

by ten votes to four,

(3) holds that the Government of Iceland and the Government of the United Kingdom are under mutual obligations to undertake negotiations in good faith for the equitable solution of their differences concerning their respective fishery rights in the areas specified in subparagraph 2;

(4) holds that in these negotiations the Parties are to take into account, *inter alia:*

(*a*) that in the distribution of the fishing resources in the areas specified in subparagraph 2 Iceland is entitled to a preferential share to the extent of the special dependence of its people upon the fisheries in the seas around its coasts for their livelihood and economic development;

(*b*) that by reason of its fishing activities in the areas specified in subparagraph 2, the United Kingdom also has established rights in the fishery resources of the said areas on which elements of its people depend for their livelihood and economic well-being;

(*c*) the obligation to pay due regard to the interests of other States in the conservation and equitable exploitation of these resources;

(*d*) that the above-mentioned rights of Iceland and of the United Kingdom should each be given effect to the extent compatible with the conservation and development of the fishery resources in the areas specified in subparagraph 2 and with the interests of other States in their conservation and equitable exploitation;

(*e*) their obligation to keep under review those resources and to examine together, in the light of scientific and other available information, such measures as may be required for the conservation and development, and equitable exploitation, of those resources, making use of the machinery established by the North-East Atlantic Fisheries Convention or such other means as may be agreed upon as a result of international negotiations.

Done in English, and in French, the English text being authoritative, at the Peace Palace, The Hague, this twenty-fifth day of July, one thousand nine hundred and seventy-four, in three copies, of which one will be placed in the archives of the Court and the others transmitted to the Government of the United Kingdom of Great Britain and Northern Ireland and to the Government of the Republic of Iceland respectively.

The CHAIRMAN. We have already covered your statement, I believe, Senator McIntyre.

Gentlemen, another matter I wanted to lay before the committee.

Senator JACKSON. Mr. Chairman?

The CHAIRMAN. I am going to recognize you in just a minute. We are trying to conclude here.

Senator JACKSON. I understand, Senator.

The CHAIRMAN. I am going to recognize you here, but we have another matter here on a nomination, what we would call routine, of General Andrew Jackson Goodpaster to be placed on the retirement list at the grade of general. And the week will not be up until Friday, but without objection we can pass on this one, too.

Senator Stevens, I want to especially thank you, and I want to send you one question here.

Senator Thurmond has a word. I will yield to him. He wants to say something.

Senator THURMOND. Mr. Chairman, I was called over to the House of Representatives this morning to testify, and I just got back.

Senator Stevens, I just want to congratulate you on a very fine statement. We have got to consider, I think, the testimony of the Defense Department and the Chairman of the Joint Chiefs of Staff on this question and the State Department. I was just wondering, do you feel there would be a great detriment done if this matter were to be deferred for 1 more year?

Senator STEVENS. In 1 year we will lose probably another 2 or 3 species off our coasts, Senator. We have no way to prevent these people today from using these trawlers that so affect all species when they seek just one particular species.

Senator THURMOND. General Brown is very concerned, and the State Department thinks that they will have a treaty in a year.

Senator STEVENS. There is no chance that they will have a treaty in a year. As I said before, they have not even started into serious negotiations on any issue, and they have 80 to 100 individual issues. We are trying to separate out as far as our shores are concerned the only issue in the law of the sea that is going to be affected by the passage of time. If we are able to do this, we then have the ability to stay there and negotiate as long as it takes to get the kind of an agreement that will protect our military rights abroad, will protect our overflight rights, but if we are forced to go into a law of the sea negotiation and are pressured by this one subject that is going to be affected by time, I think we are in a worse position at the international bargaining table, and I invite you to look at the peple that are behind this bill. We are not the people that are known to want to tear down our military at home or abroad.

The CHAIRMAN. You can make your answer as brief as you can, please.

Senator THURMOND. Thank you very much.

The CHAIRMAN. Do you have other questions?

Senator THURMOND. No, Mr. Chairman.

The CHAIRMAN. I want to recognize Senator Jackson.

Senator JACKSON. And might I commend Senator Stevens for a fine statement. I also want to commend my colleague, the chairman of the Commerce Committee, Senator Magnuson, for his leadership in connection with this fight.

The CHAIRMAN. They were all very good.

Senator JACKSON. I believe you were kind enough to place my statement in the record already?

The CHAIRMAN. Yes; it is already in the record.

Senator JACKSON. Coming as I do from the Pacific Northwest, we have been watching this problem now, particularly since the end of World War II, and it has become ever more serious each year. What Senator Stevens said is so true. It is the loss of additional species of fish in their quest for pulling all of the fish out, and it is destroying any concept of possible conservation. I must say finally, that it is out of frustration that we are acting here, really. The Law of the Sea Conferences have been going on, and on, and on, and I agree with Senator Stevens. I do not see any possibility of an agreement in the next year.

The CHAIRMAN. That is a very strong statement that you gentlemen are making on that.

Senator JACKSON. That is another problem. It is out of sheer frustration.

The CHAIRMAN. You have been familiar with this how many years? Several I am sure.

Senator JACKSON. This matter, of course, started, just to call it to the chairman's attention, and Senator Stevens will corroborate this, prior to, immediately prior to World War II when American fishermen armed their boats and were shooting it out with the Japanese fishermen coming in. Cordell Hull intervened in that one, I think, and that was in 1939 or 1940. Then after the war it has been going on ever

since. The large fleets that have been involved, first, of course, were the Russian fleets, and the Japanese fleets, and then the Koreans. The irony of it, I would just say finally, Mr. Chairman——

The CHAIRMAN. I am not rushing you, but I want your opinion though, about the frustration, and the probability of getting an agreement on the law of the sea as they call it?

Senator JACKSON. I think this is an action forcing procedure, really. It is going to push them, but if we turn around and table this, and do not act, it is going to be extended further. It is out of sheer frustration. What can we do?

The CHAIRMAN. You think in the end that it increases the probability of getting a law of the sea agreement, in other words?

Senator JACKSON. Yes; I do.

The CHAIRMAN. It increases the chances, and you have had years of experience.

Senator JACKSON. I am not saying that we are going to get a law of the sea agreement, but it will certainly be the burr in the saddle.

The CHAIRMAN. I have a couple of questions here for Senator Stevens, and I want to thank you all.

Aside from prohibiting foreign fishing, in what specific ways will this proposed legislation ensure fishery conservation during the next 2 years?

Senator STEVENS. I reconcile S. 1988 with the Fisherman's Protective Act first by emphasizing that S. 1988 is intended to be an emergency, conservation measure. S. 1988 would be enacted on an interim basis and would automatically terminate when an international agreement on fisheries jurisdiction is ratified or provisionally applied.

Second, S. 1988 is not an extension of our Territorial Sea. Its proponents seek to impose sound management principles within the 200 mile limit, with a preferential right to U.S. fishermen, not an exclusive fisheries zone.

The Fisherman's Protective Act was necessary because of the seizures of our fishing vessels off South America. These vessels were seized by nations claiming a 200 mile territorial sea. Under S. 1988, foreign vessels could only be seized if they violated sound conservation measures which have the backing of the world community.

The CHAIRMAN. The Fishermans Protective Act imposes a number of penalties against foreign states who seize U.S. fishing vessels beyond 12 miles from their coasts. How do you reconcile S. 1988 with that law and the policy of the United States under the Fisherman's Protective Act?

Senator STEVENS. A strong domestic management program must be provided as an adjunct to any curtailment of foreign fishing in our contiguous zone. S. 1988 recognizes this and includes, in Section 6, a Marine Fisheries Management and Conservation Planning provision. This section creates a Fisheries Management Council made up of 11 experts in fisheries management. The Council is charged with preparing a national marine fisheries management plan. This plan must be submitted to Congress not later than two years after enactment of S. 1988.

It is felt by some that the two year (maximum) period this section allows for the formulation of a fisheries management plan is excessive. However, considering the time it will take for a foreign phase-down and for our own fleets to build up to catch the additional available fish, two more years should not prove harmful to the stocks. The main point is that this legislation would start the foreign phase-down now.

S. 1988 will provide authority to promulgate sound management regulations beyond the three mile limit. We will be able to regulate the manner and the time these coastal species may be taken *for the protection* of the species—not for the protection of any particular fisherman.

Incidentally, your question No. 2 may suggest there would be a prohibition of foreign fishing under the provisions of S. 1988. As you know, Section 5 sets forth conditions under which traditional foreign fishing could be allowed to the extent that our own fishermen canot fully harvest the optimum sustainable yield.

[Whereupon at 11:25, the committee went on to other business.]

41-251—74——8

EXTENDING JURISDICTION OF THE UNITED STATES OVER CERTAIN OCEAN AREAS

FRIDAY, OCTOBER 11, 1974

U.S. SENATE,
COMMITTEE ON ARMED FORCES,
Washington, D.C.

The committee met, pursuant to recess, at 10:05 a.m. in room 212, Richard B. Russell Senate Office Building, Hon. John C. Stennis (chairman).

Present: Senators Stennis (presiding), McIntyre, Nunn, and Thurmond.

Also present: T. Edward Braswell, Jr., chief counsel and staff director; John T. Ticer, chief clerk; W. Clark McFadden II, counsel; John A. Goldsmith, Robert Q. Old, professional staff members; and Christine E. Cowart, clerical assistant.

The CHAIRMAN. Our meeting will please come to order.

This is an open hearing. We are glad to have our visitors.

There is great interest in this bill, and this is a special hearing set up for the group, more or less, but not limited to those that are interested in it from the standpoint of the fish and fisheries and seafood.

I have a very brief opening statement which will largely explain this particular meeting.

We hope to hear from all interested parties concerning this bill, the Emergency Marine Fisheries Act of 1974, and especially those fishing industry groups and conservation groups who may be affected.

All of these witnesses have been given only a single day's notice to appear before the committee. We greatly appreciate your efforts in being here, and we will be glad to accept any written statements you would like to submit for the record up to October 18.

The reason for such short notice and such short hearings is obvious. This is perhaps the last day of the session of Congress before the recess because of the elections.

We have to report this bill back after the Senate reconvenes. It is now or not at all as far as giving you a chance to testify.

As a result of these severe time limitations, our hearings must be concluded today with the exception of what I said about sending in statements.

In order to expedite the hearings today and at the same time provide an opportunity for a full hearing on the bill, I ask that the industry representatives testifying in support of this bill begin the testimony and try to limit your total time to something in the neighborhood of 30 minutes. Then this will be followed with approximately equal

time for the industry representatives in opposition to the bill, and at the end of this time we would like to hear from the conservation groups, and as time may permit, additional witnesses on both sides of the bill.

So you see the door is wide open and I am going to ask those now whose names I have before me, who are representing the fishing industry in support of this bill, S. 1988, to come around when their names are called.

Mr. Lester B. Orcutt, Maine Fishermen's Cooperative Association of Biddeford Pool, Maine. Come around and sit over here in one of these chairs.

Mr. Leonard Roche, Boatowners United, New Bedford, Mass.

Bill Mustard National Federation of Fishermen.

Do you have a prepared statement?

STATEMENT OF LESTER B. ORCUTT, MAINE FISHERMEN'S COOPERATIVE ASSOCIATION, BIDDEFORD POOL, MAINE

Mr. ORCUTT. Yes, sir, Senator, I do.

The CHAIRMAN. In the interest of time we will put your entire statements in the record, and staff and membership can study them, and you give the highlights of it and emphasize the points that you most have in mind.

Mr. ORCUTT. Mr. Chairman, gentlemen of the Armed Services Committee: My name is Lester Orcutt, and I am primarily a fisherman from Maine, and am also president of the Maine Fishermen's Cooperative Association. It is a privilege for me to come to Washington and testify before this committee in support of a 200-mile fisheries zone.

There are a few points that I would like to make and I will gladly answer any questions to the best of my ability.

Gentlemen, fishing is one of the oldest industries in this country and to date has been the least protected and has asked for the least from the Government of any industry. Presently we are asking for nothing for the fishing industry except protection of the stocks of fish off our shores and on our Continental Shelf. It is a matter of self-preservation not only for the fisherman and the related industries, but also for every man, woman, and child in our country and in the rest of the world.

Protein is a very necessary part of our daily diet and we are told that with increasing populations and increasing demands for protein, that the seas are going to be one of the prime sources on which we will depend. However, if the decimation of our fishing stocks is allowed to continue at the present rate, we will have nothing to turn to when we need it.

It seems to me that this is a very relevant situation for this committee concerned with national security to consider. After all, what is more important to the Nation and the well-being of its citizens.

Presently we are importing over one-half of all the fish that is being consumed in the United States. Suppose for a moment that these countries decide that they can no longer afford to send to this country some of the fish they catch off our shores? The American fisherman, having been forced out of business because of the depleted stocks, could not supply it.

Where do we turn for our protein? We would be forced into an unfavorable position in order to get this supply.

Also, with the excess profits that are being derived by the Arab world from oil, conceivably, provided they felt that they needed a weapon to use against us, this could be used to buy up the fish that would normally be imported into this country. I believe that this should be considered in the deliberations of this committee.

Believe me, gentlemen, the fishermen would welcome an agreement with the rest of the world for a solution to this very urgent problem. We all have faith that eventually a workable agreement will come from a Law of the Sea Conference. Our problem is that we do not have the time to wait for the 2, 3, or 10 years that an agreement will take to be reached and then ratified by the various countries. This is why this is an interim measure and when a Law of the Sea agreement has been reached and ratified, it would take precedence over this bill.

This bill is not designed to stop the fishing in the waters over the Continental Shelf by other nations. This bill would only control the fishing and would allow the taking of fish by other nations over the amount which the American fishermen are capable of harvesting up to the maximum sustainable yield for a given specie.

This bill basically is a conservation measure to save the various species from being fished to the point where they cannot recover. I cannot believe that other nations would retaliate by declaring a territorial sea as this measure definitely would not establish a precedent for this being done.

The enforcement of the provisions of the bill would probably pose somewhat of a problem at first, but I am sure that a country as great as ours would be able to overcome this in a short period.

I believe that the countries in question would respect this law, if they could be made to realize that everyone would benefit in the end.

Thank you, sir.

The CHAIRMAN. You have made a good statement.

The next witness, Mr. Roche.

STATEMENT OF LEONARD ROCHE, BOATOWNERS UNITED, NEW BEDFORD, MASS.

Mr. ROCHE. Thank you, Mr. Chairman. I am Leonard Roche, president of Boatowners United, New Bedford, Mass. I am a working commercial fisherman, a boatowner-operator, and presently serving as president of our organization.

Our organization is made up of owner-operators, fishermen who own and skipper their own vessels.

I have a prepared statement which I will submit for the record.

The CHAIRMAN. Without objection we will put it in the record.

[The statement follows:]

Mr. Chairman and members of the Committee on Armed Services, I am Leonard J. Roche, President of Boatowners United Inc. of New Bedford, Massachusetts and I wish to thank you for this opportunity to present a statement in favor of "Legislation to Extend Our Exclusive Fisheries Zone from 12 to 200 miles.

I have been a working commercial fisherman; boatowner/operator and presently serve as President of Boatowners United, which is unique in the fact that we are composed of owner-operated commercial fishing vessels, and which is 100% in favor of S–1988 and HR–8665.

We cannot understand why the Congress cannot and will not enact a 200-mile fisheries management, conservation and economic protection act for the benefit and survival of America's oldest commercial industry.

We, in the domestic producing fishing industry have neither requested or received much in the way of dollars or beneficial legislation through the years. We also have never complained about these absences of political or financial recognition so commonly accepted by most other industries as their due. In too many industries, other than the fishing industry, subsidies, financial assistance and enabling or protective legislation has become not only a way of life but is considered a sensible business practice.

We are perplexed, however, because in the last ten years we have made a concerted effort in every way possible to achieve legal protection for our fishing rights and resources within the 200-mile offshore limit as specified in H.R. 8365 and S. 1988 to no avail.

Continually, our fishery resources are dwindling annually. Every time a year's catch figures are received and totalled they are less than the prior year's totals and yet, particularly with the foreign fleets, effort has increased annually, as has the size, the horsepower and catching or processing ability of their vessels. Unfortuntely, total catch figures only tell a portion of the story.

The big question that should be asked is, "What is the unit effort ratio compared to the year past, the last five years and the last ten years." The real answer lies there with the size of the vessels and where the type of ability is more important than the numbers of vessels involved. Another factor rarely considered is how many days the units are fishing on an annual basis. I will wager that in 1971, 1972 and 1973 it took more man and vessel hours to catch less tonnage than in the prior year.

I, as do several others representing domestic American fishing interests, sincerely believe that with the exception of the Spanish fleet, who are using pair trawlers and on occasion three trawlers towing one net, that the rest of the foreign fleet activity is not as productive and efficient as their investment and equipment should justify.

I personally feel that the foreign nationals are out to catch all they can as long as they can, even if it is counter-productive, and when the stocks are completely decimated will move on to other fishing areas of the world. We who operate the American domestic fleet, of course, will not have the vessel capability to move on to other parts of the world.

We also are engaged in a different species fishery to meet the needs and desires of the United States consumer. We, by necessity, do not attempt to catch protein, regardless of specie, by tonnage to fill foreign needs. We here in New England catch the quality fin fish to be sold as a fresh product. That is the difference that too many do not realize and particularly many who oppose or do not understand the necessity for this interim protective legislation.

It is not only the American fishermen who are the losers, as many believe. It is the American consumer who is going to be the real loser.

One should also consider the values of seafood for its health-giving factors and it is important enough to save this renewable source of protein for its medicinal qualities available in a pleasant manner of taking that will not be available to those in need if this foreign invasion is allowed to continue to rape the remaining resources available for harvesting.

The proposed Law of the Sea Conference at Geneva in 1975, unfortunately, even if a 200-mile limit is accepted, will take time to implement and ratify. The resources off New England do not have the time to wait for enactment, ratification and implementation. If Congress cannot save the American fishing industry this year, forget it, because in another year or two at the most there will be nothing to save.

There are some who call us a fragmented industry with three small fleets of antiquated and dilapidared vessels on the Pacific, in the Gulf and here on the Atlantic.

This so-called decrepit and antiquated fleet caught and landed, dockside, 4.7 billion pounds of product last year (1973) which was about the same as the landed poundage of 1972.

However, this 4.7 billion pounds catch in 1973 had a dollar value of $907.4 million to the fishermen and vessel owner/operators.

This is not small business!

How can the United States, with all of its economic and unemployment woes, refuse to save this valuable renewable resource and industry, merely by the enactment of an interim piece of legislation?

Congress, at the moment, will not even take it out of Committee, to consider it, to debate its merits and, hopefully, to enact it.

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We are not asking for money, even though we could use financial assistance to upgrade our vessels, to develop and maintain consumer education programs, assistance to processors who must meet new E.P.A. and F.D.A. guidelines and regulations to remain in business. Surprisingly, perhaps we are not opposed to a Wholesome Clean Fish Act, or similar legislation, because it will benefit the consumer and, eventually, the seafood industry in its entirety.

We in the fishing industry, and myself in particular, cannot understand how the beef industry in a very short span of time, in this year's session of Congress, introduces, debates and passes legislation to provide livestock producers with $2 billion in federal loan guarantees to assure that the beef industry can continue as a viable, profitable industry. The legislation carries a funding price tag of $2 billion.

We are not knocking this. We are merely requesting the same consideration and are also stating that there is no funding necessary at this time with our piece of legislation for the fishermen, vessel owner/operator or processor.

Ironically, a great deal of this same beef in the form of hamburgers will be purchased by the U.S. School Lunch Program by a prior agreement, and yet this same School Lunch Program rarely purchases U.S. caught and processed seafood and shellfish. If an occasional American product is purchased, it is usually in small lots and of little dollar value to our industry, particularly here in New England.

We are one of the few food industries that deals primarily with the U.S. consumer and not the government or institutional trade. We also must compete daily with the foreign vessel-caught seafood/shellfish products which in many, if not most instances, are highly subsidized by their governments. We also now are competing of late, in the wholesale/retail market, with those same highly mechanized foreign fleets who are raping the resource within the 200-mile seaward boundary, returning to their homeland or on occasion dropping off processed product at a free or neutral port and shipping it into the American and Canadian marketplace.

For the reasons stated I, therefore, close by asking three questions:

1. Does the United States want or need a domestic American fishing industry?
2. Does the domestic American fisherman and owner/operator have a right to have a renewable, natural resource available for harvesting?
3. Does the American consumer have a right to purchase a fresh or quick-frozen quality seafood/shellfish domestic product, caught by American fishermen, with American vessels, in American waters?

Gentlemen, only the Congress can make that decision on behalf of the American fishermen, vessel owner/operator and consumer.

Respectfully submitted:

LEONARD J. ROCHE,
President.

Mr. ROCHE. I would also like to submit for the record a portion of a newspaper from New Bedford which gives various reasons for our support of this bill.

The CHAIRMAN. Without objection it will be inserted at this point.

[The newspaper article follows:]

[From the Standard-Times, New Bedford, Mass., May 30, 1974]

200-MILE LIMIT CALLED LAST CHANCE—FISHERIES MANAGEMENT NEEDED

(By Jack Stewardson)

The question of a 200-mile fisheries limit boils down to a question of fisheries management, members of the New Bedford fishing industry strongly feel.

It involves definitely what they feel to be a question of their continued survival as a fishing industry, but within a larger question of whether the once-rich grounds off New England can be managed properly, be replenished, and produce a long-term future.

Fishing industry officials note they have no illusions that the passage of the Studds-Magnuson interim 200-mile fisheries bill will clear foreign fleets from their back doors. But they see the legislation as a means, and possibly as a last

chance, to produce an effective fisheries policy to end the reckless exploitation of the valuable, renewable marine resources.

"In another few years it won't be economically feasible for any of us to leave the docks," commented Harry P. Swain, owner of and skipper of the New Bedford dragger Shamrock and vice president of Boatowners United Inc. "For many of us here it's close to that now."

Swain and others in the fishing industry have seen their annual port landings fall from an average close to 120 million pounds annually last decade, down to 61 million last year.

The decline has coincided with the appearance and growth of modern, sophisticated, foreign fishing fleets and the failure of such international conventions as the International Commission for the Northwest Atlantic.

Without protection now, comments William Beaumont, president of the New Bedford Seafood Producers Association, "the foreign nationals are going to continue to clean up here without regard to conservation and then go on to other places. We can't. We'll be left with nothing."

"They're fishing for protein and that's all they really care about," seconded Leonard J. Roche, president of Boatowners United Inc.

The growing concern among nations of the world over the status of the world's seafood resources, industry spokesmen feel, is a symptom of the growing realization that past practices, and past international law, have been inadequate to produce a viable caretaking role over the ocean resources.

The growing number of nations who are looking toward a 200-mile limit, specially among emerging national communities, say they carry the wave of the future.

Although the United States plans to advance a so-called species approach at the Law of the Sea Conference in Caracus, Venezuela, this summer, New Bedford officials feel such a position is inadequate to the task at hand.

The species approach will leave fish stocks indigenous to the coastal zone under the caretaker role of the coastal nation, while placing many of the migrating ocean fisheries, such as tuna, under continued international control.

"Many of us here in New Bedford have the feeling that all fish stocks are tied together," commented Joseph F. Veiga, business agent for the New Bedford Seafood Workers Union. "When one begins to go, they all follow."

"We've seen it here in New England."

"Instead of solving the problem," commented Atty. Harvey B. Mickelson, executive director of the New Bedford Seafood Producers Association, "it may multiply the problems."

They add that a type of species approach tried in the past by the ICNAF convention, setting quotas one individual species of fish, proved to be unwieldy and was finally modified last October to include an overall management program.

That management program, keyed to dropping fishing levels in a three-year period to a point where stocks can finally begin to recover, will be too little too late, they say.

"Until a year or two ago they didn't have the ability to enforce the treaty agreements," Mickelson said. "There was no mechanical basis for enforcement. Now we're starting to get enforcement but we're running out fo fish.

They also caution that whatever comes out of the Law of the Sea, be it a species approach or a 200-mile limit, may not be in force in time to conserve and protect the fisheries.

"It took seven or eight years for the last Law of the Sea agreement to be ratified," commented Austin P. Skinner, secretary-treasurer of the New Bedford Fishermen's Union. "We just can't wait that long."

Mickelson in turn adds he is highly skeptical that the United States, if a successful agreement is hammered out this year in Caracus, or next year in Vienna, will be able to convince nations, such as the Soviet Union, that the terms of the agreement should be implemented immediately, before the ratification process.

"The big plan of the government is to try and get us involved with other species," Mickelson said. "They're telling us we had better try and find something else to catch. Go look for something else. The State Department is willing to write us off."

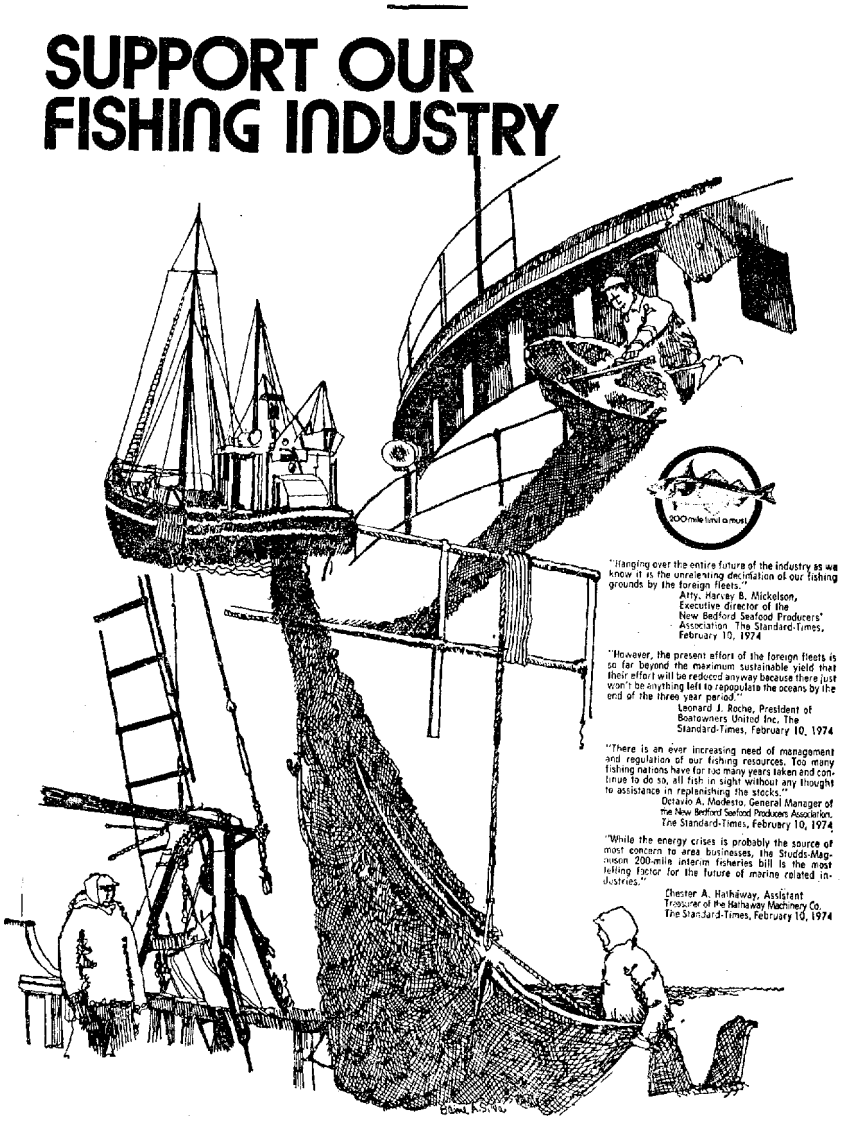
Much of the question, the pros and cons of the 200-mile limit agree, boils down to where you fish, on your back door on on someone else's. In shore shrimp fishermen in the Gulf Coast, they maintain, are not vocally against a 200-mile limit as are shrimp fishing interests who fish off the coast of South America.

It also boils down, they say, to whether or not the resource is to be preserved.

"I think we would be finally enhancing our image as defenders of the natural resources which make up such a large share of the world's food supply," commented Howard W. Nickerson, an ICNAF industry adviser.

FLEET DWINDLES

New Bedford's fishing fleet, once numbering more than 200 vessels, has dwindled to approximately 120 vessels today.



FOREIGNERS TAKE GLUT OF FISH

(By Don Fraser)

One statistic is enough to show why U.S. interests are waging a "death struggle" to shove the domestic offshore fishing zone from 12 to 200 miles off the continental coastline.

An in-depth study of the prime finfish catch from 1961 to 1973 by the National Marine Fisheries Service indicates the U.S. portion of the offshore New England take dropped from 94 to 16 per cent.

What this drop from nine to no more than two out of every 10 fish caught in the rich Atlantic fishing grounds means is loss of income to a key Greater New Bedford industry.

Alarm grips area fishing interests as they watch 17 nations take a variety of marine species out of the vulnerable Northwest Atlantic in a hard-to-regulate manner.

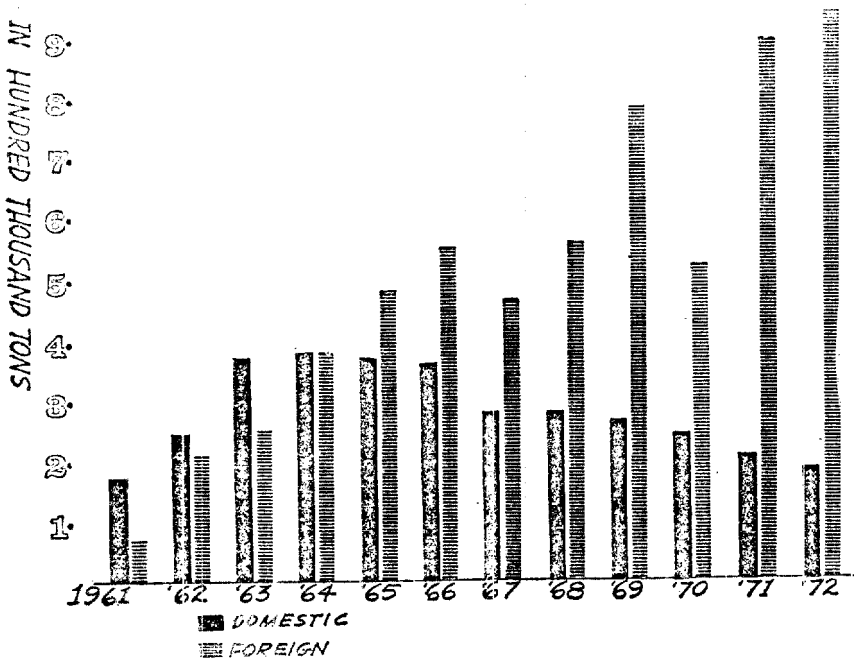
The threat of extinction of such species as yellowtail flounder and haddock on top of the sharp decline in scallop take in recent years has critically undermined New Bedford's economy.

There is regulation. The global take off New England is under the eye of the International Commission for the Northwest Atlantic Fisheries (ICNAF). There is a question as to ICNAF effectiveness.

Despite an effort by ICNAF last October to reduce foreign fishing catches by 30 per cent in 1974, surveillance reports from the National Marine Fisheries Services Service indicate the fishing effort, if not the catch, has increased by more than 15 per cent this year.

Who fishes the once lucrative Northwest Atlantic? The Soviets make it big business. The Polish, the Bulgarians, the Danish, the French, West and East Germans, Icelanders, Italians, Japanese, Norwegians, Portuguese, Romanians, Spanish and English have been there sharing the banks with U.S. and Canadian counterparts.

The foreign fleets contain vessels far bigger in size than U.S. draggers. Many have holding capacities of over one million pounds of fish.



Fish catch bar graph on New England fishery outlines growth in little over decade of foreign fishing catch and at same time indicates decreasing shares being caught by U.S. fishermen on their traditional fishing grounds.

In most cases they represent highly sophisticated and highly government-subsidized fishing efforts. The Soviets alone have been sinking close to $600 million annually into their global fleets.

They fish round the clock with stern and side trawlers. The foreign fleet is part of an industry at sea where so-called motherships (factory vessels), cargo carriers and support ships exist.

What's been billed as "The Great Invasion" occurred in 1961, according to Milan Kravanja of the National Marine Fisheries Service's Division of Foreign Fisheries.

The Soviets, who had been using driftnet catches from old side trawlers, arrived in the fishing grounds aboard 300 to 500 vessels to start a decade of systematically fishing the Northwest Atlantic.

A rust-encrusted New Bedford or Gloucester-based dragger soon became no match for a Polish stern trawler, 250 feet in length, capable of carrying 1.5 million pounds of frozen fish for months.

The foreign invasion as legitimate as marine law can permit under the 12-mile offshore domestic limit is seen by the fact that total catch rose from 344,286 metric tons in 1961 to 1,144,597 in 1972.

But, New Bedford and other New England interests did not show the same percentage rise. The U.S. total overall finfish catch fluctuated downward from 274,919 to 182,974 metric tons.

A classic example of what has happened to a number of top New England delicacies is the sharp depletion in yellowtail flounder stock principally because of the 1969 Soviet effort.

The Soviets came into the area east of Long Island and south of Cape Cod and took 17,985 metric tons of yellowtail unannounced to add to the normal U.S. take of 19,600 metric tons.

This yellowtail flounder take almost doubled the normal depletion of the specie in one year and thereafter seriously threatened the stock.

Another classic example of what's happened to the ocean seafood grab is evident by the haddock depletion. The U.S. took 48,892 out of 59,635 metric tons from the Atlantic in 1963.

The Soviets, bolstered by sophisticated ships and electronic gear, joined the harvest seriously in 1965 and took 81,882 metric tons compared to the 57,027 metric tons the U.S. caught.

This high yield led to a two-year effort that contributed to the critical haddock shortage that prompted the ICNAF to "close" the Northwest Atlantic to haddock catches in 1972 and 1974.

The two examples disclose to a degree the critical nature of the problem of Northwest Atlantic commercial fishing when in two years a stock can be overfished to the extent it leads to near extinction.

The advent of a 500-foot Soviet or Polish factory ship in competition with a small U.S. dragger within the last 12 years is a tiny indication of how Atlantic fish reserves can be exhausted in a decade.

What lasted for a century with little or no threat of extinction based upon conservative U.S. fishing efforts almost overnight developed into a situation where mass fishing has almost reached a "point of no return."

STUDDS TESTIFIES

Testimony of Rep. Gerry E. Studds, D-Mass., on legislation to provide for extended fisheries jurisdiction, senate committee on commerce Boston, May 14, 1974.

Mr. Chairman and Members of the Committee, I appreciate this opportunity to appear before you at the beginning of these important hearings in Massachusetts. As the main sponsor in the House of Representatives of legislation to extend U.S. fisheries jurisdiction to a total of 200 miles from our coastline on an interim basis pending an agreement at the Law of the Sea Conference, I testified before this Committee in Washington last December. My legislation in the House (H.R. 8665) is identical to S. 1988, and a total of 77 Members of the House are now either co-sponsoring my bill or have filed identical bills.

Rather than repeat a description of the proposed legislation, what I would like to do today is to emphasize the urgent need for it to be passed as quickly as possible. When Senator Magnuson and I filed this interim 200-mile limit legislation last June 13th, we knew that the voracious foreign fleets off our coasts were threatening the continued existence of the most important fish stocks. The situation today is even more critical.

Increased fishing activities of fleets from Russia and other countries practically destroyed the population of haddock in the 1960's, and fishermen who depended on haddock for a living were forced to switch to yellowtail flounder and other species. Now we are faced with a dramatic decrease in the population of yellowtail flounder. Increasing numbers of press reports indicate that the flounder catch in southern New England may have to be reduced by as much as 50 percent to allow continuation of the species as a commercially viable fish stock in future years.

It is cruelly unfair for large, highly-subsidized foreign fleets to move in on a coastal fishery, overfish it to the point of destruction, and then move on to destroy another part of the world's ocean fish resources. It is unfair to the domestic coastal fishermen—such as those from New Bedford—whose vessels are not built to make long journeys to find fish far from shore, and who must simply stop fishing when the foreign fleets have cleaned out their part of the ocean. It is unfair to the American consumer, who will only be able to buy less desirable species of fish, while the most desirable species are being eaten in Moscow and Warsaw. And it is unfair to hungry people all over the world, who will have lost fish as a source of important protein if we continue to allow this destruction to continue.

More and more scientists are predicting that the world food crisis will only increase in severity. Right now, many people are starving to death in the Sahel region of Africa, Biafra, and other areas of the world. An international food conference is now in the planning stages, and concerned Americans are mounting efforts to ship foods to regions stricken by drought and famine.

The fish off our coast—and off the coasts of other nations—are an important source of food, and are especially important to the world supply of protein. It is our duty as responsible members of the international community to take every possible action to insure that this important source of food continues to be available in future years.

Since the total world catch declined by eight percent in 1972, the United States must take firm action now to force Russia, Japan, and other nations to observe proper conservation measures in their fishing activities. Through our leadership we may be able to stop the destruction of world fish supplies in time. We have waited too long to act to protect our fisheries.

ICNAF Policies Called Ineffective

(By Jack Stewardson)

The failure of the 16-nation International Commission for the Northwest Atlantic Fisheries to develop effective policies in managing Northwest Atlantic fishery stocks has caused New Bedford industry leaders to look longingly to the day when a 200-mile fisheries limit is a reality.

They feel that immediate action on an interim basis now, until the Law of the Sea Conference develops new international fisheries law, may be the only way of stopping the decimation of the valuable marine resources off the Atlantic Coast before it is too late.

The ICNAF convention, they say, although it has methodically and ploddingly tried, has failed to come to grips with the problem of insuring a rational exploitation of fishery stocks, which make up a large share of the world's seafood supply.

The commission, they note, in more than two decades of existence, and in particular the last decade in which there has been an influx of large, multi-nation fishing fleets, has been unable to balance fishing growth with conservation.

That the Halifax-based commission has had its limitation has been acknowledged by even Donald L. McKernan, who, as former special assistant to the secretary of state in charge of fisheries affairs, has presided over most U.S. efforts at the international bargaining table.

McKernan, in noting the organization's imperfections, also would comment the organization "is the best thing we have now." Increasingly, fishing industry advisers to the commission have come to the conclusion that when the "best we have" isn't good enough it's time to start looking for something else.

"ICNAF isn't working," comments Mathias Bendiksen, one New Bedford industry adviser. "Not one fisherman believes in it. We've just been playing games there."

The problem with ICNAF, Bendiksen and other industry advisers agree, is it has always reacted instead of acted.

"Most conclusions reached there have been after the fact," commented Austin P. Skinner, another industry adviser from New Bedford. "And they have not helped to even keep the fisheries at an even level."

There also has been some dissatisfaction at times with the positions advanced by the U.S. commission at the meetings over the years.

"Too many times we have always negotiated from the position of let's give away as little as possible but at least come home with some type of agreement," said Howard Nickerson, the city's third adviser to the U.S. delegation. "We (the advisers) can only advise but we can't make policy."

Advisers concede that the organization has provided a groundwork for exchange of statistical data from member countries although throughout the industry there have been recurring doubts about the accuracy of some of the reports.

But in it's essential task, that of conservation, it has failed and will likely continue to do so because it does not have the means of developing and enforcing agreements, they say.

Haddock, now near commercial extinction, and yellowtail flounder, possibly on that road in some areas, reached the crisis point after unexpected foreign fishing activity on the stocks, in both cases Soviet fishing efforts.

Today, scientists assessing all the major fishing stocks in the Northwest Atlantic, note they are being fished at or over the point of maximum sustainable yield.

Most advisers see a major ICNAF problem of regulating so-called incidental catches to be one problem that would still be evident under a species approach being advanced at the upcoming Law of the Sea Conference in Caracas, Venezuela.

Continued depletion of endangered stocks has come about as a result of incidental catches of the species by nations not really concentrating on the stocks, industry spokesmen say.

The ICNAF organization is now attempting to place an over-all catch limit on all finfish stocks taken in the Northwest Atlantic so that in another 2½ years the fishing level will be reduced to a point where it can begin to rebuild stocks.

"If we have to wait that long, and we don't have a 200-mile limit, we're not going to have any fish for the vessel owner and fisherman to catch nor the processor to process," says Nickerson.

"There will still be problems with a 200-mile limit," Bendiksen noted. "But we would hope that by placing coastal nations under control we will be able to minimize them so we can do the job."

200-Mile Limit Proposal Outlined

The "Interim Fisheries Zone Extension and Management Act of 1973" is a legislative proposal designed to authorize the United States to take steps to allow for the "protection and conservation of threatened species of fish" and to "protect our domestic fishing industry."

The legislation, originally filed last June in the U.S. House of Representatives by Rep. Gerry E. Studds, D-Mass., and in the Senate by Sen. Warren G. Magnuson, D-Wash., is currently being heard in committee in both branches of Congress.

The bills currently have 116 sponsors in the House and 21 sponsors in the Senate.

If enacted the legislation would:

—Create on an interim basis a 200-mile fisheries limit for the United States for the purpose of bringing fish stocks within that area under management control of government.

—Provide for U.S. authority over anadromous species of fish, such as salmon, which are spawned in inland waters, both inside the 200-mile zone and outside in cases where such jurisdiction does not interfere with other nations' fisheries jurisdictions.

—Authorize the Secretary of State to initiate negotiations with nations currently engaged in commercial fishing operations for fish protected by the act for the purpose of entering into treaties and agreements to carry its policies and provisions.

—Authorize the Secretary of State to seek treaties and agreements with contiguous fishing nations to provide for a "rational utilization and conservation of the resources."

—Seek arrangements with nations whose coastal fish are harvested by U.S. fishermen for a continued U.S. share, under users' fees, of the stocks, and seek reciprocal arrangements with countries now fishing the United States coastal zone.

—Become inoperative on the date Law of the Sea treaty or treaties now being developed on fisheries jurisdiction and conservation enter into force.

The act would not:

—Interfere with free passage rights of foreign vessels with the 197-mile contiguous zone outside the U.S. territorial limit of 3 miles.

—Bar foreign fishing vessels from fishing inside the contiguous zone, but would instead bring those fishing activities under the management control of the coastal state.

BOATOWNERS TESTIFY ABOUT FOREIGN FLEETS

Statement by Leonard J. Roche, President of Boatowners United, Inc., to Senate Commerce Committee on Studds-Magnuson Bill.

Boatowners United, Inc. is made up mostly of owner-operators, New Bedford men who own and work as fishermen on their vessels. They are not speculators who move their money from one business to another.

They are fishermen, who have successfully built the New Bedford industry into a $70 million business. Yet, the effort of these people may go to waste unless the wholesale rape of the fisheries stocks in our front yard by foreign national distant water fleets is left to present instruments.

Statistics show that in 1965 the industry landed 147,316,000 pounds of fish here in New Bedford, Massachusetts total landings for that year were 409,630,000 pounds. The condition, of the stocks was good and the future looked promising. We had a thriving haddock and cod fishery plus an unlimited flounder fishery including the famous New Bedford yellowtail flounder.

Nine years later, the haddock fishery is just about extinct. The flounder is in danger of disappearing.

Our annual catch in New Bedford is no longer 147 million pounds. It is now 60 million pounds, less than half, and this is with more effort and longer trips.

In the early stages of the game, we pleaded for conservation by all parties concerned. The more we pleaded, the harder the foreign national fleets fished on our stocks of fish.

First they took our full grown stocks, then the smaller fish, until the stocks were beyond the maximum sustainable yield. Yet they continued until the stocks were in dangerous condition.

All the while, their representatives sat down with our government representatives within the International Committee for Northwest Atlantic Fisheries Convention and talked in general terms about the need for conserving the stocks.

In one instance the Soviets agreed to stay out of the yellowtail fishing areas but neglected to pass the word to their enormous fleet which continued to clobber the stock and feed our $70 million industry into the fertilizer cooking plants on the sterns of their vessels.

Just last week a number of New Bedford boats were fishing on the 3600-6040 line (by Loran Bearings) in the middle of the vast fleet of huge foreign national vessels. If you were to be present on this scene at night time, it would look to you just the same as a large city with thousands and thousands of lights as far as one can see over the horizon. Our men were trying to bring home a decent trip of yellowtail flounder. They spent most of the time dodging these large vessels which would bear down on them even though our American vessels had the right of way. Finally a Coast Guard vessel arrived to act as interference for the

American fleet. I remind you, these incidents take place every day in our own front yard in the Atlantic

This points up an absolute need for extended jurisdiction to the 200-mile limit. It is a regulation needed for two reasons: conservation and economics. Without extended jurisdiction, the foreign national fleets will continue uncontrolled—breaking the chain of life in the ocean until all species are endangered. It is a known fact to scientists, fishermen and boatowners that they have broken every conservation rule in the book, even though they profess to be concerned with conservation measures.

Economically, the New Bedford Area and other areas along the Atlantic Coast are dependent for a good portion of their prosperity directly or indirectly from the fishing industry. It has been suggested by people in other parts of the country that the fishing industry wait until the Law of the Sea Conference decide for all nations what will be defined as extended jurisdiction. The fishermen and the boatowners cannot wait while the cumbersome machinery of international politics decides our fate. Our fate will be decided by you. Immediate extended jurisdiction will give us the chance to truly conserve the valuable stocks of seafood off of our shores. In reality, extended jurisdiction should have been done a number of years ago.

We have consistently asked for this to no avail while we watched the valuable resource diminish year after year for nine years and continuing. If this country does not grant immediate extended jurisdiction but decides to wait for the Law of the Sea Conference to define it, there will be no industry left when this definition finally materializes because the rape of our fishing grounds continues without letup by the Foreign National Distant-Water Fleets. The end result will be that the millions of dollars of vessel investment by American fishermen and the millions of dollars in wages and salaries derived from the industry will no longer be.

In addition, extended jurisdiction will not help unless controls are placed on the entry of the foreign national fleets. In other words, extended jurisdiction to the 200 mile limit will be useless if the Soviets and other such nations are allowed to continue their past practices.

It is a simple realistic fact that without immediate extended jurisdiction, we cannot in any way survive as an industry.

[From the Standard-Times, New Bedford, Mass., May 30, 1974]

TODAY'S VIEWPOINT: AN INTERIM LIMIT

(An editorial from The Standard-Times of April 12, 1974)

Late last year, Rep. Gerry E. Studds, D-Mass., author of legislation that would set up a 200-mile fishing limit as an interim measure until an international conservation agreement can be worked out, was the lead-off witness for the proposal before Sen. Warren G. Magnuson's D-Wash., Commerce Committee. Mr. Studds declared passage of the bill is needed immediately "or we aren't going to have any fish to conserve."

This newspaper has been reluctant to endorse legislation of this type, even on a temporary basis, believing that unilateral U.S. action might inhibit a broader, international approach aimed at protecting marine life and guaranteeing exploitation of ocean resources in an orderly and cooperative manner. Both Mr. Studds and the bill's co-author, Sen. Magnuson, appreciate this reservation, but suggest we do not have time to wait for an agreement they hope will come, without doing something in the meantime. Their arguments become increasingly persuasive.

With the advantage of perspective gained from his committee hearings, Sen. Magnuson now has concluded:

The whales and fishes of the world's oceans are being wiped out at an astonishing rate—targets of destructive technology applied on a massive scale.

This problem has come about mainly because Japan, the Soviet Union and certain other nations have defied "common-sense limits" on their catches. As a result, we now face the likelihood of total collapse of traditional coastal fisheries which provide needed protein for the world and jobs for hundreds of thousands of Americans.

Off New England, the Soviets, Poles, and East Germans have, in a little more than a decade, almost wiped out the formerly abundant Georges Bank haddock.

gravely imperiled once-enormous stocks of sea herring, threatened the yellowtail flounder fishery and depleted stocks of cod and other fishes. U.S. catches have been cut in half in a few years.

A new agreement on North Atlantic fishing, although touted as a U.S. "victory," provides quotas for the Soviet Union and other Eastern-bloc countries three times greater than that accorded our fleet. The agreement, written last year, clearly neither terminates Soviet fishing rights off our coasts nor provides enough reduction in catch to permit fish populations to recover.

What is happening off the East Coast is paralleled off the West Coast. Off Oregon and Washington, Soviet fleets have halved U.S. perch catches in a few years and are well on the way to decimating the stocks. Off Alaska, the Japanese have so depleted the sockeye salmon that biologists feel another season of netting may not only destroy the fishery, but jeopardize the survival of the species. In the Bearing Sea, the important U.S.-Canadian halibut fishery has been eliminated by what are called "incidental catches" by Japanese and Soviet fleets. The "incidental" Japanese catch last year exceeded the entire deliberate catch by American halibut fishermen.

Moreover, at the recent meeting of the International North Pacific Fisheries Commission in Tokyo, the Japanese, who account for more than 80 per cent of the total catch, refused to reduce their fishing effort despite clear evidence that their failure to do so will result in annihilation of once-plentiful stocks.

More than 140 nations are expected to take part in the U.N. conference on the Law of the Sea, which begins in June, an effort designed to cope with these and other problems. Major proposals have been made that would protect marine life but there are such deep schisms between participating nations that this conference—as with other international efforts—could end in failure. We sincerely hope it does not, yet even if it does concur in effective conservation measures, an agreement could not be ratified for years.

We cannot wait—the fisheries cannot wait—and we, therefore urge swift passage of the interim 200-mile fishing limit.

Extinction Near

Haddock, once the mainstay of Boston and Gloucester fishing boats and an important secondary catch in New Bedford, has been declared to be on the verge of commercial extinction by the National Marine Fisheries Service because of over-fishing.

Today's Viewpoint—For 200-Mile Limit

(An editorial from The Standard-Times of May 14, 1974)

There is nothing surprising and nothing very impressive, either, in the Nixon administration arguments against the Magnuson-Studds proposal to extend the U.S. fisheries zone to 200 miles on an interim basis.

Kenneth Rush, acting secretary, Department of State, has presented the conventional case: Such extension would be harmful on a long-term basis to all U.S. fishing interests, it would be a violation of international law, it would jeopardize the U.S. position at the Law of the Sea Conference, and it would hurt the shrimp and tuna fishing industries.

Mr. Rush also noted that the State Department has been working on bilateral and multilateral agreements to help the New England and Pacific Northwest fishing industries.

To these presentations, we would reply:

What is proposed is short-term, not long-term, a stop-gap designed to prevent the present ravaging of the resource until something multilateral and better can be arrived at.

Violation of international law or not, such extensions of fisheries zones are a fact of international life and have been for several years, and their numbers continue to increase. Moreover, although it has expressed objection, the United States has tacitly or implicitly accepted establishment of such zones by other countries and has recognized their existence by federal payments, direct or indirect, arising because of them.

Concerning the shrimp and tuna fishing industries, they are already living with the extended fishery zones of other nations. Moreover, because U.S.-subsidized fines are a good source of income for other countries apprehending our vessels in their waters, it is reasonable to suppose more countries will establish such offshore limits regardless of what we do. Further, it is unreasonable to suppose that they will refrain from doing so simply because we do not.

With regard to the Law of the Sea Conference, we have stated earlier that it was with reluctance that we supported unilateral action in this area but were forced to do so because (a) other nations, especially Japan and the Soviet Union, continue to demonstrate no responsibility whatever with regard to protecting the resource and, as a matter of fact, threaten it in several areas with extinction, and (b) even though conference agreement on a 200-mile limit seems increasingly possible, the organization's ponderous machinery insures that implementation of such a measure will take years.

Finally, concerning the bilateral and multilateral agreements—the International Commission for Northwest Atlantic Fisheries providing a classic example—although we supported the effort and greeted the much-heralded "concession" gained with editorial hope—experiences proving that such approaches are ineffective and insufficient.

The Magnuson-Studds approach is neither shortsighted nor selfish; it simply recognizes that something must be done quickly or we shall not have to do anything—there will be no fisheries resource left. This difficult position was not of our making; it has arisen because of the irresponsible fishing programs of other nations in waters adjacent to our coasts.

FISHIN' ALMOST GONE

(By Bob Hall)

"Gone fishin'."

Remember the calendars that dotted the walls of businesses and the work shops of millions of homes?

The posters detailed the idyllic life. Closing up shop for a while to relax with a beer or soda in a rowboat, the fishing line bobbing gently in a near calm sea or lake, and the sun shining from a cloudless sky.

But the 1974 business of commercial fishing is far from idyllic. It can be frustrating and exasperating as any business. Especially when the catch that used to come into the port in the hundreds of thousands of pounds, comes in the thousands of pounds.

Solidly supporting a 200-mile limit as an interim measure until some international agreement can be arranged, is the New Bedford Fishermen's Union.

The union's chief spokesman, Austin P. Skinner, has good reason to support the move. A few years ago, the union had 1,500 men aboard 200 boats sailing from this city to the fishing grounds.

Today, about 900 men sail on 140 boats and unless something, anything really, is done pretty soon, the fishing fleet could become extinct as the whaling fleet that once made New Bedford a name known around the world.

The foreign fleets have done their work well on the offshore grounds to a point where New England's fleets of small fishing trawlers have had less and less to harvest each year.

Skinner notes the union is not asking for a complete ban on foreign fishing on the grounds but rather some system of control.

The executive secretary of the Fishermen's Union commented that a permit or licensing system could be agreed upon under the Studds-Magnuson bill, which would allow the foreign fleets to fish inside the 200-mile zone.

The bill will offer a means of developing a better enforcement system, he says, and will allow the United States to determine more exactly what the foreign fleets are taking from Georges Bank and other fishing grounds. It will provide better management than is currently available.

The union spokesman doesn't see the immediate adoption of a 200-mile limit as the answer to the fishing industry's problems.

It's rather a stop-gap until the Law of the Sea Conference can hammer out some kind of agreement, if it does at all.

UNION'S POSITION

Statement of the New Bedford Fishermen's Union in support of the unilateral extension of the fisheries contiguous zone of 200 nautical miles.

Since our Pilgrim forefathers first settled in this area, the fisheries have played an essential part in the economy of the colonies and latter the nation. Thank God they cannot see how these fisheries have been desecrated in the last fifteen years.

The situation grows continually worse with more and more foreign fishing vessels competing with us for less fish. Existing international agreements have not worked in the Northwest Atlantic and in our opinion will never be satisfactory to the domestic fisheries interests.

In the early 1960's, the New Bedford fishermen recognized the need for long-range conservation methods in the coastal fisheries. Because we were part of an international management scheme and because the United States had no authority under existing law, the fishermen had to stand by and watch the depletion of the major stocks of fish on which we were dependent for our livelihood.

The number of nations in the world community which have extended their fisheries jurisdictions have increased dramatically and coincides with the growth of the distant water fishing fleets which have depleted fishery stocks around the world.

In all probability, the law of the Sea Conference will come to some conclusions with regard to either extended jurisdiction or coastal control of the coastal fisheries. The problem that we see in using this avenue is the fact that any such international pact usually takes several years to obtain the necessary signatures to place the agreement in force.

Our fisheries cannot wait for this type of action. If we do, there will be no fishery left. We desperately need the type of unilateral action which is being studied here today.

The basic problem with a multi-national agreement such as ICNAF is that most conclusions reached are an after-the-fact sort of conclusion and conservation measures adopted have not helped to even keep the fisheries at an even level. We feel that a major reason for this is the question of the by-catch or incidental fish caught when fishing for a basic species (i.e. flounders caught when fishing for red or silver hake. The quota for red and silver hake in sub-area 5 for 1974 amounts to 240 metric tons. In 1973, the total catch of red and silver hake was around 199.8 metric tons of which the U.S. accounted for 26.3 metric tons. The foreign catch was 173.5 metric tons. If this foreign fleet, in catching this amount also took the allowable 10 per cent incidental catch of yellowtail flounder, they would have brought on deck approximately 17.3 metric tons of yellowtail flounder or an amount equal to more than 70 per cent of what U.S. vessels can land under established quotas for yellowtail flounder). Before ICNAF could ever be an effective instrument to protect the fisheries the problem of the incidental catch would have to be cleared up.

It has been argued that extension of fisheries jurisdiction would be harmful to our distant water shrimp and tuna fisheries. The recently negotiated agreement with Brazil and the fact that our government re-imburses any fines levied on the tuna fleet by South American countries is indicative that the U.S. government does in fact recognize the extended jurisdiction of some countries. S. 1988 would allow the U.S. Government to do the same thing to foreigners off our shores for a much better reason. This would be for the conservation of the coastal species.

SEAFOOD WORKERS FEEL PINCH

(By Marilee Hartley)

Like many seafood workers, Betty Soares gets up every morning and telephones her boss to see if there is work that day.

If she is needed, she notifies the babysitter, her mother-in-law, and reports to Aiello Brothers, Inc., a New Bedford fish processing plant.

But since December she has been called in only three or four times. The rest of the time she collects unemployment compensation amounting to less than half of what she would earn on the job without overtime.

Both Betty, a packer and trimmer, and her husband, Fernando, a fish cutter, have been sea food workers for about 10 years.

Fred, who has seven years seniority at Coastal Fisheries, has worked regularly. But he now averages about 32 hours weekly, compared with frequent 60-hour workweeks a few years ago. "But I'm better off than a lot of others because of my seniority," he commented.

"We both used to work from seven in the morning until seven at night. We would cry for time off. Now we cry for work," Betty said.

They say there is no work because there is no fish. Foreign fishermen have depleted the fishing grounds using nets far smaller than those allowed under U.S. regulations, the couple say. The foreign fishing boats are also much larger than New Bedford draggers.

The amount of work began to decline about two years ago "but this year has been the worst," Betty said. "I've never seen it this bad."

The Soares both feel strongly that things will get a lot worse unless Congress promptly approves a 200-mile fishing limit for the United States.

Fred said the seafood workers support the 200-mile limit almost unanimously. A native of Portugal, he is vice president of the Seafood Workers Union, Local 1572–6, International Longshoremen's Association.

"I know Nixon's against the 200-mile limit but I'm against him," Fred said. "So that makes us kind of even."

Has their reduced income been a hardship? "Of course we've had it rough. I think everyone in the industry is struggling," Betty said.

The couple have three children, a daughter, 15, and two sons, 13 and 9. They live at 5 Grinnel St., Fairhaven.

One of their major headaches has been medical bills. Their younger son, Fred Jr., has a history of illness. He recently contracted hepatitis. The family now owes several thousand dollars in hospital bills alone.

Fred said the best solution for working people would be a national health insurance program and particularly better medical coverage for children, Betty said.

"Most women in my shop have children," she said. "That's why their working. Some women in my shop don't want to go on welfare, but they're almost forced to. Every time a child gets sick they're set all the way back again."

Day care facilities also would be a great asset to women workers, she noted. "Many times they have to stay home when their children are sick for a day or a babysitter can't make it," she explained.

Betty lost her seniority at another plant two years ago when her mother-in-law could not babysit for a time. Her low seniority in the current fish situation means she is one of the last to be called into work.

Meanwhile, rising costs are adding to the woes. "Utilities, groceries—everything is sky high," Fred said. "There's no way a working person can cope with the cost of living these days." Especially when fish plant work is scarce.

Wives Aid Fishing Husbands

(By Marilee Hartley)

United Fishermen's Wives is a 50-woman team of well-informed public relations specialists for the New Bedford fishing industry.

"We formed the group five years ago to help our husbands. They're out fishing so much, they don't have time to help themselves," explained Mrs. Lucille Swain, executive secretary of the organization. She is also office manager for Boatowners United, Inc.

Her husband, Harry, is owner of the fishing vessel Shamrock.

Mrs. Swain explained that the group has 52 active members compared with 90 five years ago because many wives have too many family responsibilities for the round of activities involved.

One of the group's first projects was to write every U.S. congressman urging enactment of a 200-mile fisheries limit.

"We got nothing but lip service then. But support has grown in the last five years," commented Mrs. Janet Connors, president. Her husband, Eugene, is skipper of the Christina J.

The group feels strongly that unless the limit is approved soon, New England fishing grounds will be depleted and the industry destroyed.

Other organization efforts on behalf of the industry have included a campaign to get local schools to use New Bedford fish.

"Most schools still serve foreign fish, but we did get the Stop and Shop on Dartmouth Street to sell fresh New Bedford seafood," noted Mrs. Bernice Calnan, vice president and wife of Donald Calnan, part-owner of the Betty Earl.

The group also is represented on the New England Fisheries Steering Committee and participates every year in the Whaling City Festival.

Besides fund-raising for its numerous projects, the organization has donated a book on fishing to every school in the New Bedford area, has had distress flags made and sold at cost to New Bedford fishing vessels and has sponsored a demonstration on gourmet seafood cooking.

About four years ago, Mrs. Swain and Mrs. Connors visited Denver, Colo., to promote New Bedford Fish. Sponsored by the New Bedford Fishermen's Union, the trip was a success, they said.

The group also contributes to a number of charities and sponsors scholarships for the children of members.

Mrs. Swain stressed that the 200-mile limit is the single most important issue for the fishing industry. "Without it, we won't have an industry in two to three years," she said.

She explained that foreign fishermen, equipped with huge factory ships, many smaller vessels are overfishing American waters.

Regulations on catch limits and net size set up by the International Commission for Northwest Atlantic Fisheries are enforced on U.S. fishermen by the National Marine Fisheries Service, while foreign vessels routinely violate the regulations, she said.

Mrs. Connors said her husband recently found baby lobsters in the bellies of a cod catch. Cod normally eat herring, "but there are no herring left," she said.

She said the small nets used by many foreign boats catch everything, including baby fish. "You never see seagulls behind a foreign boat, because they keep everything," she remarked

Mrs. Swain noted that legislation on a 200-mile limit would also have to include more funds for U.S. Coast Guard enforcement.

Mrs. Swain said ICNAF has been "a failure," but "it's the only thing we've got." She said in the long run, another form of organization will be needed.

CITY CAPTAIN PLANS SAIL ON WASHINGTON

(By Jack Stewardson)

George E. Feener first got his feet wet in the New Bedford fishing industry 25 years ago when he spent his high school summer vacation out to sea aboard his father's fishing boat.

Today, at a still-young 40, and now the owner of three New Bedford draggers, Feener is planning to sail his Sharon and Noreen to Washington next week to lobby for support for a 200-mile fisheries limit.

The "Sail on Washington" is being sponsored by the Save the American Fisheries Group, a New England organization composed of legislators, fishing industry officials and conservationists. The group also has drawn support from many other sections of the country.

Feener has become part of the effort, he says, because if something isn't done to protect the New England fish stocks there is going to be a "disaster."

"I feel in the future if we don't cut down on the foreign fishing effort we'll be out of business in another four or five years," Feener says.

"Our boats have been competing with foreign trawlers as long as 300 feet," he adds. "They've been sweeping the oceans. The ocean is becoming dead."

Feener has made his living from the sea, it's been good to him, but with overfishing it's "becoming a desert."

Overfishing is not the only problem confronting the New England fishing industry, he said, but it makes the other problems academic. "If we've got no fish to catch, they'll be no sense in sending any boats out."

Feener first began feeling the pull of the sea at 15 while still a student at Fairhaven High School when he went out on his father George's boat.

Fishing ran in the family blood. George Sr., in addition to skippering a number of New Bedford boats, was also at one time the port delegate to the Atlantic

Fishermen's Union. A brother, Charles, has been an official in the New Bedford Fish Lumpers Union and is currently working with one of New Bedford's stevedoring outfits.

By the time he graduated from high school, George was ready for a mate's job on a New Bedford scalloper. By the age of 21, he had become a skipper, one of the youngest in the port at that time.

Father of four children, Feener no longer is a full-time fisherman but still makes occasional trips to the fishing grounds. He is a director of the New Bedford Seafood Producers Association.

With the Sharon and Noreen, he also owns the draggers Gary and Aaron and the Invader. The Sharon and Noreen and Gary and Aaron are named after his children.

His oldest son Gary is now at the age when George himself started fishing, but Feener says at the moment his son's main interest is in sports.

Although New England's fishing boats have been criticized by a Gulf Coast shrimp spokesman as being "museum pieces," Feener says he feels the criticism is not entirely justified.

There are many old boats in the New Bedford fishing fleet. But there are also some newer ones. One of the reasons, vessel construction has been minor, in addition to high construction costs in the United States, is because of the uncertainty over the resource.

Feener's Sharon and Noreen was built in 1966. To build such a vessel today, he says, would cost close to $500,000.

"If a fellow saw signs of a bright future, signs of a good living, maybe things would be different," he said.

Although high fish prices have in some ways counteract the decline in fish landings in New Bedford, Feener notes there will be a limit on what the consumer will pay for fish.

"We've had scarcity and we've had good prices," he says. "But to an extent we're going to outclass ourselves by pricing ourselves out of the market."

SEAFOOD DEALERS BACK LIMIT BILL—U.S. FISHERY NEARING DISASTER

Prepared for Presentation Before the Senate Commerce Committee at Boston on May 14, 1974 by Harvey B. Mickelson of the Seafood Dealers Association of New Bedford.

When one finds himself on the brink of disaster he generally reflects in an attempt to establish how and why he got there. And so it is today. The purpose of these hearings is the result of circumstances which have in fact become disastrous and were perhaps necessary for a real recognition to be given to the unalterable fact that the domestic fishing industry is on the brink of disaster.

As reported in the newspapers, it has been suggested by representatives of other facets of the so-called domestic fishing industry, for example the shrimp people and the tuna people, that the domestic industry should be left at a status quo to be protected down the line by conventions which have indeed historically created that situation which exists today.

The fishing industry of the Northeast further reported in the papers has been called a "museum piece" and it is strange that any aspect of the domestic industry should be marked by one who has not yet felt the impact of foreign fishing pressure in the particular area that he represents. This would appear to be a flagrant nonrecognition of what is capable of happening to any fishery historically looked upon as domestic, once encroached upon by foreign fishing pressure.

The inability to recognize the circumstances which provoked that type of remark is tantamount to the inability of the particular person to recognize what could happen and probably will happen to that group he represents unless, of course, the group he does represent is not in fact involved in the domestic fishing industry.

On reflection, unless one knew it to be otherwise, the past eight or ten years could be looked upon as a contrived scheme to systematically annhilate species of fish under the guise of international agreements and conventions which were supposedly attempted for the purpose of conserving and rehabilitating those same species. We in the Northeast may appear to be particularly sensitive to the impact of the legislation which is being considered by this committee. We have lived through the annihilation of haddock and possibly may see the annhilation

of yellowtail and flounder within a time framework that only amounts to a few years.

Opponents of the legislation being considered will continue to raise arguments that the unilateral action by the United States in declaring extended jurisdiction would reduce the effectiveness of negotiations at such meetings as the International Commission for Northwest Atlantic Fisheries and the so-called Law of the Sea Conference to be held this summer. When in fact I have not heard one comment from any knowledgeable person that indicates that there will be any success at the Law of the Sea and certainly, based on past performance, one cannot assume that there will be much success in reducing the amount of foreign fishing activity in those areas subject to ICNAF.

May I summarize a report prepared by the Northeast Fisheries Center for the ICNAF Advisory meeting on May 8, 1974, with reference to the condition of certain fisheries:

1. Flounders other than yellowtail, "stock condition in general poor; foreign bycatch a significant problem."
2. Haddock, "stock still at very low levels; all efforts to minimize by-catch needed."
3. Herring (regulated fishery), "total available catch may have to be less than 1974 as classes since 1970 do not appear strong."
4. Mackerel, "abundance indices calculated by U.S. show continued decline."
5. Other fish, "survey cruise information indicates low stock levels."
6. Squid, "concern about increasing fishing activities in this fishery."
7. Yellowtail flounder. Southern New England, "stock has continued to decline as removals exceed recruitment."
8. Yellowtail flounder, east of Block Island, "stock is declining due to removals exceeding recruitment. Continued fishing will further deplete stock."

In the meeting at which the above information was disseminated, the question was asked whether it was anticipated a year ago that the fisheries above mentioned would reach the levels that appear to be existent. The answer was "no."

With regard to the yellowtail and flounder, both of which are under international supervision, there is very little doubt that the depletion that has taken place in one year is a result of unreported catches of these fisheries by foreign vessels. We are now told that it may be necessary to substantially reduce fishing in certain of the areas referred to above in order to rejuvenate the stocks. Based on past experience, reduction in overall quantities of fish to be taken will result in a much greater than proportional reduction in the total U.S. catch, as the continued taking of large quantities of fish that are not reported by foreign vessels continues.

One need only look at the history of yellowtail and flounder under international supervision to see a classic example of negotiated destruction of a natural resource in a period of ten years. The foreign vessels will voluntarily remove themselves from any area in which it is not economically reasonable for them to remain and their voluntary removal will leave in its wake the destruction of a fishery.

It has been stated time and time again that the United States needs a national fisheries policy. I concur. But based on past experience, one can conclude that a national fisheries policy entangled in ICNAF-type negotiations and Law of the Sea Conferences will bring to other parts of this country what has befallen the Northeast.

It would appear that fishing pressures along the eastern seaboard by foreign nations is increasing. I believe that the available information indicates that the number of foreign vessels now operating has increased 15 per cent from last year and that there have been put into service more sophisticated vessels than we have had in the past which may, in effect, increase the total fishing capability substantially more than 15 per cent. The West Coast of the United States in the area of pollock fisheries will probably be subject to additional fishing pressure as the Japanese and the South Koreans are hastily increasing the size of their fleets. It should be obvious that only one reason would cause fishing vessels to come thousands of miles from their shores and that is that the fisheries domestic to them have been depleted and now the fisheries that are domestic to the United States will be depleted.

May I suggest that the only person who could oppose the legislation being considered would be one whose interests are deeply involved in one or a combination of two things: that the basis of their business or the industry they represent is not domestic and/or they are involved in bilateral agreements and special concession situations with foreign countries.

Is that the type of vested interest situation that should determine a national fisheries policy? Should the results of years of ICNAF and the prospect of years of Law of the Sea Conferences be the basis upon which the United States should look forward to a national fisheries policy? May I suggest that either of these alternatives is tantamount to a national disaster reflecting that which has occurred in the East but multiplied many, many times.

The United States must take immediate control of its natural resources, in this case, fish. It must analyze the condition of the stocks, the needs of its domestic producers and its domestic consumption, take those steps that are necessary to ensure the rehabilitation of those fisheries already ravaged and then negotiate on a bilateral or multilateral basis with regard to those fisheries in abundance and those species which, because of their natural migration habits, required unusual attention.

Let us stop now, look around, see what we have and from a position of control develop a national fisheries policy free of those entanglements that have brought us to this moment in time which is our last chance to prevent a national disaster.

BILL 'LAST HOPE,' PRODUCERS SAY

(Statement by Octavio A. Modesto, general manager of the New Bedford Seafood Producers Association before the Senate Commerce Committee, May 15, 1974 in Boston.)

The passage of the interim 200-mile-limit bill is our only last hope. We have been foisted with various forms of conservation and quotas for years. These methods have not worked. This has only resulted in benefits to the foreign fishing fleets and a dwindled fisheries resource.

Our haddock has all but disappeared, they take all they can and nothing is ever put back. Certainly, the farmer could never continue to raise good crops if he just took the yield and never returned something to maintain the strength of the source of supply. There is simply utter disregard for this marvelous resource, and its survival.

We urge Congress to act in favor of the proposed 200-mile interim fishing legislation now pending. It has been said by many that there are doubts about the ramifications of such legislation, its enforcement and effect upon other ports in the South. This has not troubled the Latin American countries of Ecuador, Peru, cod is down to nothing and we were notified recently that we should cut our yellowtail flounder fishing by 50 per cent. Since Yellowtail is our New Bedford fisheries' mainstay, how can any vessel or plant survive on a 50 per cent operation? This would amount to a definite and total strangulation of New Bedford's fishing industry.

The American fisherman has over the years battled the elements, the fish themselves and lastly the market prices to eke out a livelihood. For the past 14 years, the American fisherman has been confronted with the "Invasion" of foreign fleets on our historical New England fishing grounds. The foreign fishermen, who are for the most part subsidized by their governments, outnumber and outsize any of our commercial fishing vessels. With this type of competition, thousands of miles from their native lands despite any and all quotas taking all species and all size of fish, our resources are exhausted to the point that mother nature can no longer reproduce fish to restock our resources and support the heavy fishing of the foreign fleets.

Our domestic fishermen try to live up to regulations, using proper size mesh to ensure propogation. I am sure that the foreign nationals pay little attention to this as evidenced by the reports over the years.

While no one seems to take responsibility of our fishing grounds, everyone from all over the world fishes hard there and does nothing that can be classed as conservation. The foreign fishing fleets simply Chile and Brazil, seem to have managed after the declaration of a 200-mile zone off their coastline. In fact, we should remember that there is a definite possibility that when the foreign fleets have cleaned out the New England fishing grounds, they are quite likely to change their operations to the shrimp area and those who are now objecting to the 200-mile limit would be singing a different tune.

Although it is late, something can still be salvaged. We have too long been charitable to the other countries. I would suggest that we agree that "Charity begins at home" and that we do something about it now . . . Pass Bill S-1988.

Fish Plants Caught in Middle

(By Bob Hall)

Passage of a 200-mile fishing zone by the U.S. government would be the best present handed the New Bedford fishing industry in a long time.

It is the sought-after light at the end of the tunnel that fishing interests locally have been negotiating for some time.

Edwin J. "Ed" Smith, president of Ell Vee Dee, Inc., at Green and Wood Pier in New Bedford, is typical of the man caught in the middle.

Costs of business are going up. Fish tonnage is going down. And the family that buys the fresh and frozen fillets that come from Ell Vee Dee's packing and processing plant must pay close to $3 for a fish dinner today.

Statistics in multiple form are boring. But here are a few facts about Smith's operations:

Despite the shrinking fish totals, company expenses have kept rising. In 1972 and 1973, Smith noted, Ell Vee Dee's payroll was over $600,000. In 1963 and 1964 the total was between $515,000 and $595,000. But in the 60s there was twice as much fish coming into New Bedford to split the expenses.

Fifty-five persons employed in the fillet room haven't worked while 50 "outside" workers are on a part-time schedule.

Where total work hours once ranged to 50 and 60 a week, it is 20–30 hours a week now.

The fillet houses in the city, 12 of them, need 200,000–240,000 pounds of fish a day. The "take" is 60,000–90,000 because of the fish shortage.

A company dock worker was paid $1.75 an hour in 1963. Ten years later, he earns $3.85 an hour, on top of other benefits, such as pensions, health and welfare payments and a guarantee of seven hours pay a day if called to work even if the plant only operates four or five hours.

Invariably, when workers are let go because there is too little work it hurts the company. "We've lost a lot of key workers to other places," Smith explained. The workers move on to other industries as the declining fish tonnage takes its toll on the job market.

Smith says he feels his plant and some of the large fillet houses can weather the current shortage "but for the small fillet houses . . . I don't see how they'll survive.

"It (the 200-mile limit) is a very important thing," Smith said. "It's a must for the salvation of not only New Bedford, but (other fishing ports) Boston and Gloucester.

The Ell Vee Dee president says he plans to go to Washington shortly to lobby for support of the Studds-Magnuson bill.

Tuna Men Neutral Toward Limit

(By Frank Roylance)

New Bedford tuna fishermen take a neutral position on whether the U.S. should impose a 200-mile fishing limit off its shores.

The bluefin tuna, they say, are a world-ranging fish and would not always be protected by territorial fisheries management imposed by one country, as would native species such as the yellowtail, haddock and cod.

The New Bedford tuna seiners—the North Queen, the Sea Rover and the A.A. Ferrante—have been working the brief, three-month summer tuna season for 12 years.

Bluefin tuna begin running off New Jersey in late June and gradually work their way along the coast of Long Island and New England following the warming currents until late September or early October.

In a sense they are protected in their run up the coast by their migratory patterns which keep them almost exclusively within the U.S. 12-mile fisheries limit. Puerto-Rican based West Coast vessels and Canadian seiners allowed inside the contiguous zone by bi-lateral treaty, are the only "outsiders" in the fishery.

It's not certain where the fish go from here, but according to Leonard Ingrande, who owns the North Queen and the Sea Rover, and Frank Cyganowski, part-

owner with Ingrande of the A.A. Ferrante, bluefin tagged here have been caught in the Bay of Biscay off western France, and off Brazil.

New Bedford tuna boats landed 2.6 million pounds of tuna last year. The catch was mostly bluefin, but included some skipjack as well.

The catches are off-loaded here or at Cape May, N.J., and shipped to Cambridge, Md. for processing.

As far as their own interests are concerned, Ingrande and Cyganowski agree that foreign fishing fleets are "not after tuna" and pose no direct threat to tuna stocks.

For the East Coast tuna fishery at least, said Ingrande, "the 200-mile limit . . . is not important at all."

Catches of mackeral and herring, which are food for the bigger tuna, are regulated by international agreement, theoretically at least protecting those fish as well as the tuna from the kind of over-fishing that depleted these species in European waters.

The tuna men are not blind to the problems of the draggers and trawlers, however. "We can appreciate their problems," said Ingrande, and recognize the need for conservation.

But the tuna are a "world resource," according to Cyganowski, and should be regulated by international agreement.

The local tuna industry also is reluctant to buck the powerful West Coast tuna interests. Hence their neutral stance.

Only about two per cent of the nation's valuable tuna industry—second only to shrimping in dollar value annually—is located here. Cyganowski referred to the local tuna fleet as the "mosquito fleet."

"It would be presumptuous of us to buck the West Coast tuna interests," he said. Ninety per cent of the U.S. tuna catch, Ingrande noted, is caught off foreign waters.

At a Senate Commerce Committee hearing in San Diego, April 17, more than 150 people, most representing the California tuna industry, voiced angry opposition to adoption of the 200-mile fishing limit.

San Diego Republican Congressman Bob Wilson told Sen. John Tunney, D-Calif., who chaired the hearing, "The tuna sandwich and the tuna casserole we've all come to know and love could well become faint memories of the past, too expensive for most of us to enjoy."

The tuna men warned that adoption of the 200-mile limit sought in the Studds-Magnuson bills now pending before Congress would encourage South and Central American countries that have not already done so, to impose similar limitations.

Rep. Lionel Van Deerlin told the committee the 200-mile limit would be "bad politics and rotten diplomacy."

August Felando, general manager of the American Tunaboat Association, said passage of the bill would be a "stab in the back to the multination commissions that are trying to conserve tuna" from overfishing.

"It's a grand illusion that (the bill) will protect the fish," Felando said. "It will destroy them."

Joseph Gann, an official of Western Ocean Products, Inc., which operates a fleet of 13 purse seiners, said fishermen who support the 200-mile limit are in trouble because of obsolete fishing methods.

"Washington," he said, "is apparently listening to the voices of politicians from areas in which fishermen have not been progressive and have not kept up to their foreign competition."

"Now," he concluded, "that they are being put out of business by foreign competition, they are screaming for governmental protection in asking for this 200-mile limit."

Ingrande, who "grew up with" the west coast tuna industry before coming to New England, said that for Ecuador, which has a 200-mile fishing limit, seizing U.S. fishing boats inside their 200-mile limit and exacting fines, has become a lucrative "industry."

Because the U.S. government reimburses American fishermen for fines and license fees paid to foreign countries, the ultimate loser is the American taxpayer.

Fishermen also complain of harassment by foreign governments on the pretext of enforcing their 200-mile limits. Payoffs to gunboat commanders are only one of the indignities, they say. Rights of passage are also threatened.

Ingrande related a recent incident in Panama where a U.S. fishing boat was steaming toward the Canal Zone reportedly to get medical help for a hemorrhaging crewman.

The San Diego-based tunaboat was seized and fined $57,200 for allegedly fishing inside the 200-mile limit.

Purse-seiners, Ingrande said, can't stow their three-quarter-mile long nets and are accused of fishing—or looking for fish—inside territorial waters when they may only be passing through.

The Studds-Magnuson bill would not interfere with free passage within the contiguous zone.

Industry Called at Crossroads

(Testimony of Sen. Edward W. Brooke before the Senate Commerce Committee, May 14, 1974.)

Mr. Chairman, I appreciate the opportunity to appear before your committee to testify on a matter of great importance to all of us in the commonwealth and New England. It is also my pleasure to welcome you to our state. During your visit, I hope you will have the chance to taste some of the seafood dishes for which we are justly famous. I am confident that this would lend even more immediacy to the task at hand, for unless swift action is taken to protect the region's fish—and fishing industry—we may not have any fish to serve you.

As many will tell you today, the New England fishing industry is at a critical crossroad. Not only are the men and women who make up this industry becoming increasingly and exonerably forced out of business, but the very product they seek is increasingly—and needlessly—becoming extinct.

This state of affairs has been brought about by the tremendous increase in the fishing efforts of foreign nations off our coast. Just 10 years ago our New England fishermen were responsible for over 90 per cent of the total catch off New England. Now they account for less than 45 per cent. This has all but shattered our once thriving fishing industry and, even more importantly, this has left our fish stocks on the brink of extinction.

When the effects of this huge foreign effort first became clear, I, like many of my colleagues, was hopeful that the International Commission for Northwest Atlantic Fisheries could and would resolve the growing imbalances. Created to "protect and conserve the fisheries of the Northwest Atlantic in order to make possible the maintenance of a maximum sustained catch from these fisheries," ICNAF seemed to offer real possibilities of correcting this obvious overfishing.

However, the Commission has repeatedly failed to live up to its mandate. Most recently at its Ottawa meeting last fall, ICNAF was presented with carefully prepared scientific evidence detailing clearly the terrible effects of rapidly declining fish stocks in the Northwest Atlantic region. Yet, the Commission responded with only a three-year program to reduce the foreign fishing effort—a program which will not even begin to reverse overfishing until 1975 or 1976. Moreover, the success of the Ottawa agreements are contingent upon strict compliance of all member nations. Past precedent unfortunately indicates that such compliance has not been forthcoming and there is no reason to believe that it will be forthcoming in the future.

Hence the time has come for unilateral action on the part of the United States Government. We can no longer rely on the faith of foreign nations nor can we rely on the efficacy of international agreements. We must act now to protect this great resource and our men and women who harvest it. I believe that S1988 offers us the best avenue for such action. By extending our contiguous fishing zone out to 200 miles, this bill will not only provide our depressed fishing industry with needed relief, but it will assure the nation, indeed the world, continuing availability of one of our most vital food sources. In essence, it does what ICNAF and other international agreements should have done long ago.

Fleet Faces Cut in Flounder Catch

The International Commission for the Northwest Atlantic Fisheries is considering asking New Bedford fishermen to increase their catches of yellowtail flounder on southern New England grounds next year to prevent further depletion of the stocks.

Such a decline in catch would leave the U.S. allowable catch, in the area at a level of about 4,500 metric tons, a level that would practically put the flounder in that area on the same regulatory level as the haddock, almost an incidental catch basis.

The yellowtail flounder for years has been the mainstay of the New Bedford fishing fleet. The crisis developed in 1970 when the Soviet Union reported taking an incidental yellowtail catch from the area almost equal to the U.S. catch.

Fish Landings Fall

New Bedford fish landings have fallen from a record high volume of 147 million pounds in 1965 to 59 and 61 million pounds in the past two years.

Since 1971, when yellowtail flounder first came under regulation by the International Commission for the Northwest Atlantic, port fish landings have failed to reach the 100 million pound level.

Excerpts of Ted's Testimony Given

(Excerpts from Sen. Edward M. Kennedy's testimony before the Senate Commerce Committee in Boston, May 15, 1974).

It is clear to me and I am certain that today's hearing will demonstrate that it is clear to New England fishermen that extension of the fishing zone to 200 miles is the only way we can reverse the spiralling devastation of our fish and marine resources.

Volumes of testimony has been gathered by this committee in support of 200 miles fishing zone from other parts of the nation.

The Atlantic States Marine Fisheries Commission recently passed a resolution in support of the legislation we consider today.

Massachusetts and Rhode Island have already passed 200 mile fishery zone legislation.

During testimony taken by the Senate Commerce Committee, objections to extention of the fishing zone have been raised by tuna and shrimp fishermen from the Gulf and Pacific Coasts. The National Marine Fisheries Service statistics for 1973 show that 11 per cent of the total catch by American fishermen is caught off foreign shores representing 17 per cent of the total dollar value of the catch by American fishermen. The legislation to extend our fishery zone is designed to protect affirmatively 89 per cent of the industry representing 83 per cent of the dollar value.

But it should be stressed that, in the view of the distinguished chairman of this committee, nothing in this proposed extension of the fishing zone will adversely affect the tuna and shrimp industries No present treaties in force to protect those industries will be abrogated. Indeed, future treaties are encouraged by the legislation.

There also has been discussion before this committee regarding traditional fishing rights as they relate to extended fisheries jurisdiction. What is clear from that discussion is that international maritime law is an evolving body of law and that so far that evolution has not kept pace with the technology which has changed the character of the oceans of the world.

The Truman proclamations of 1945, the 1958 Geneva Convention on fishing and conservation, the extension of fishing zone jurisdiction by 10 nations—all reflect changing attitudes in traditional fishing rights concepts which were based on the theory that the supply of fish was inexhaustible.

The extension of the fishing zone is an opportunity to end the tension between American and foreign fishermen: To reverse the buildup of bitterness and frustration over the last of enforcement of existing agreements: And to foster international goodwill and cooperation among nations to assure the future of maritime resources.

The conservation of our marine resources is in the best interests of us all—in the best interests of our commercial fishing industry and our sports fishermen, of the economy of the developing nations of the world and the people of the world who depend on fish resources for protein, and it is in the interest of international good will and cooperation.

We cannot shirk our responsibility to the ocean resources off our shores. We can no longer ignore the grim forecasts of depleted stocks. It is our happy duty to lead the other maritime nations of the world into recognition of the conservation crisis and the potential for cooperation in alleviating this crisis.

Mr. ROCHE. In addition, I would like to make some oral remarks which I would like to have put in the record as well.

The CHAIRMAN. Without objection.

Mr. ROCHE. We have opposition to the bill. We have had information that the people from the tuna industry are opposed. We would like to know who says they are opposed. Many of the tuna people are quietly buying licenses from foreign countries now in order to fish within the 200-mile limit of these other countries.

In addition, Star Kist Tuna Co., a subsidiary of Ralston Purina, has plants and fishing boats operating in South America, Africa and the trust territories. They have a joint venture with the Japanese in Japan. It is their representatives you will hear from in opposition to this bill today, not the fishermen.

Regarding the shrimp industry, who says they are opposed; not all shrimpers are opposed. Those who fish off the coast of the United States and the Gulf need to and want to have this protection because they fear what the Cuban and Mexican fishing interests will do when their resources dwindle. The Cubans are building a large fishing fleet now.

You know where their expertise comes from—it comes from the Soviet Union. We know where the finances come from—the same place.

Will it be in the best interest of our security and defense to allow a large fleet of Cuban vessels to operate in the Gulf and Atlantic as the Soviets now do off of the New England coast.

The shrimping interests who are opposed to extending jurisdiction are those who own facilities and operate vessels inside of the 200-mile zones of other countries. Ask them when they testify. They represent 2 percent of the shrimp labor force and only 20 percent of the value of the shrimp landings.

Regarding the jeopardy of U.S. security, the legislation is an interim measure—I repeat that—an interim measure until the Law of the Sea Conference and ICNAF do their job. The legislation does not stop innocent passage over, upon, or under the waters covered by the legislation. It simply is for fisheries protection, nothing else, to protect the resources for the future, no joint research project with other countries' security agreements with other countries, or anything else, will be affected in any way whatsoever.

It does not affect any bilateral agreements in any way. If it did, they could be adjusted as they have in the past.

For the paranoiacs who spread the ridiculous fear that the legislation is a detriment and will cause confrontation, I must state that without the legislation there will be confrontation.

Over a month ago, one of our member vessels was hit from behind by a huge foreign national vessel, and so severely damaged that it is still being repaired at tremendous cost to the individual captain who owns it.

On Sunday, September 22, another vessel from our fleet was hit and sunk with the loss of a mate's life. Confrontation is taking place. Even our allies are taking fishermen over the hurdles. I will give you some statistics.

In an area where there is a zero quota on haddock, we have six British vessels, one of them with 130 tons of haddock aboard, another with 10 tons, another with 96 tons, another with 10.5 tons, and another with 45.2 tons, and the last one with 10 tons. One vessel has 130 tons of haddock aboard. The skipper told our Coast Guard he had capacity for 600 tons and would stay until he got his capacity.

The CHAIRMAN. Where did this incident occur?

Mr. ROCHE. This was off the eastern end of the Georgia Banks.

Our men are upset and angry and confrontation will become international incidents. We can avoid this confrontation if the legislation is enacted because surveillance and enforcement could become a fact. The Canadians and the Americans could jointly institute surveillance and enforcement on two coasts with their overlapping boundaries and interests.

Canada is going to institute a 200-mile limit. If they do it without the United States, there will be confrontations. Many other countries are going to institute a 200-mile limit without U.S. approval or acceptance. There will be more confrontations.

One final answer for the Pentagon people. The Law of the Sea Conference has already agreed to a 12-mile territorial extension and in principle a 200-mile check zone. In effect they have already closed the straits and other passages to military passage, which the Pentagon is worried about.

This legislation in no way affects the military, it only gives the American fisherman his just due.

Mr. Chairman, without the legislation we cannot survive as an industry, not even for 2 more years.

Thank you.

The CHAIRMAN. You have some good points there, too, and from a practical standpoint I was impressed.

Mr. ROCHE. One last addition to that, Senator, is that our fishermen are fined and have a criminal record if they catch any haddock in this area, and the British are cleaning it up.

The CHAIRMAN. Is there not something that we can do about it? Under the law, is there not some one who has responsibility over trying to police this matter?

They keep you out, and do we not try to keep others out?

Mr. ROCHE. I think if we had extended jurisdiction of our Government surveillance and enforcement, if they enforced as well on the foreign nationals as they do on the Americans, we would not have any problems.

The CHAIRMAN. How do they enforce it on you, revoke your license to fish at all?

Mr. ROCHE. First of all, we are not allowed in these areas; if we are spotted by a Coast Guard or other surveillance outfits, then when the vessel returns to shore, they usually receive a summons to go to court.

The CHAIRMAN. You are speaking from practical knowledge of these matters?

Mr. ROCHE. Yes, sir.

The CHAIRMAN. You have been in close contact with the problem?

Mr. ROCHE. Yes, sir.

The CHAIRMAN. I do not mean they arrested you, not yet anyway, but you do know that these things happen?

Mr. ROCHE. Yes, sir.

The CHAIRMAN. Thank you very much.

STATEMENT OF BILL MUSTARD, NATIONAL FEDERATION OF FISHERMEN, WASHINGTON, D.C.

Mr. MUSTARD. These gentlemen here are all active working commercial fishermen. I myself try to spend as much time as I can in commercial fishing. However, since I am in Maryland, located fairly close to Washington, I usually end up here more than I do on my boat.

Before I start my statement, I would like to include the statements of several people from Mississippi who have expressed a great deal of interest in this matter.

Marlin Sutherland from Bay St. Louis, and Walter Jackson, counsel for Gulf Fishermen, Inc., of which Mr. Deville is the president. That is a Biloxi corporation. And Mr. Pete Barhonovich is the director of the Mississippi Gulf Coast Fishermen's Association, which is also a Biloxi Fishermen's Organization; Mr. Walter Ross, Charles H. Lyles, Michael Sevel, Capt. Jimmy Bradley, owner of the Jimmy-Diane; Danny Wenerski, shrimper from Biloxi, and Ross Tanguis.

These gentlemen are members or directors of the Gulf Fishermen's Association, and I have a brief statement I would like to include on their behalf.

Mr. Sutherland briefly sums up his comments by saying:

"I am interested in the 200-mile limit and I think it should be put into effect as soon as we can."

Mr. Lyles from the Gulf Coast Fishermen's Association—both groups have over 1,000 members in the Gulf Coast-Mississippi area, and their attorney, Mr. Ross, summed up this way the position of the Mississippi fishermen by stating, and I quote:

> We in the Gulf of Mexico have been somewhat more fortunate, and I qualify that somewhat—more fortunate than our brothers in the North Atlantic and North Pacific. We have not totally escaped. Already they are here and the hour is late. Already the foreign fleets have catalogued the species and this is a prelude to the coming onslaught. Perhaps we have been spared because the Japanese only recently mounted a fishing operation in the Gulf of Alaska that would stagger the imagination of the American fishermen. The Russians have been busy doing the same thing off the Northwest Coast of Africa and off of New England, but our respite is temporary.
>
> Our great Mendhaden Fishery, which supports our fishing industry, is in serious danger. The shrimp fishery has been reconnoitered and catalogued for harvesting. Our offshore bottom fish stocks are well-known. Therefore, gentlemen, it is too late. Therefore, with the record of failures by the various international commissions, we must resort to the unilateral action that will save our resources; that is, adoption of the 200-mile limit, and now.

That statement was by Charles Lyles, representing the Gulf Coast Fishermen's Organization, and is in the House hearings which will soon be published.

I would like to sum up the feeling of some of the groups around the country and some of these other fishing boat captains, and we will be glad to answer any other questions.

The CHAIRMAN. Very well.

Mr. MUSTARD. My statement is very brief and I have some appendixes here to support the statement, which will save considerable time.

The CHAIRMAN. All right.

Mr. MUSTARD. Gentlemen, my name is William G. Mustard. I am a commercial fisherman and a marine consultant for the National Federation of Fishermen, a council of 69 fishermen's associations from Maine to Alaska, with a present combined membership of over 20,000 fishermen.

I have come here to submit for the record some basic facts concerning the 200-mile economic zone bill, S. 1988.

At this time I would like to put an appendix to my testimony in the record.

The CHAIRMAN. Without objection.

[The document follows:]

REPORT ON FOREIGN FISHING OFF U.S. COASTS, JUNE 1973

(Prepared by Milan A. Kravanja, International Activities Staff, National Marine Fisheries Service, Washington, D.C.)

SUMMARY

The number of foreign fishing and fishery support vessels sighted during the National Marine Fisheries Service (NMFS) surveillance patrols, conducted in cooperation with the U.S. Coast Guard, increased in June to about 930 vessels, or 90 vessels more than were observed in May 1973. (In June 1972, only 770 foreign fishery vessels were sighted off U.S. coasts). The large increase in 1973 is due entirely to expanded foreign fishing off Alaska and continued heavy fishing off the Pacific Northwest. Table 1 shows the detailed composition of foreign fleets by country and vessel type.

The largest concentration of foreign vessels remained off *Alaska*, where their number increased to 653 (from about 500 vessels in May 1973). This was the largest number of foreign vessels fishing off Alaska in any month during the past 2 years. In June 1972, only 445 foreign vessels were off Alaska, in June 1971—only 413. By far the largest foreign fleet was Japan's; continued heavy fishing for Alaska pollock (117 vessels) and the peak activity in the seasonal salmon fisheries off the Aleutian Islands (342 vessels) brought the Japanese fleet to about 580 vessels. Virtually the entire fleet licensed by the Japanese Government to fish for salmon in the North Pacific and the Bering Sea (10 motherships and 341 salmon catcher vessels) was in the Alaskan area in June. The Japanese engaged in salmon fisheries both south and north of the Aleutians (see fig. 1 for details).

The difference in the number of Japanese vessels fishing for salmon in the North Pacific and the Bering Sea in 1972 and 1973 is due to variations in the abundance of salmon species. The number of vessels licensed for North Pacific and Bering Sea salmon fishing was about the same in both years. In 1972, when sockeye salmon was exceptionally abundant, several Japanese salmon motherships and catcher vessels fished west of the Date Line in the northern Bering Sea out of the Alaskan area. This year, when pink salmon is more abundant, all 10 Japanese motherships are concentrating off the Aleutians. The June 1973 Japanese salmon catches consisted mostly of pinks (90% of total catch), according

to Japanese newspapers. Sockeye catches are reportedly smaller than in 1972 and the catch of chums is substantially lower. As a result, prices for salmon are rising sharply in Japan. This year Japanese salmon motherships freeze most of their catch (for sale on domestic markets where the demand and prices are good).

Other smaller Japanese fisheries off Alaska this month were: Bering Sea crabs (34 vessels), Pacific ocean perch (17 vessels), various groundfish (22 vessels) and sablefish (7 longliners). The fishing for herring in the northeastern Bering Sea was discontinued in mid-June.

The Soviet fleet off Alaska during June numbered 62 vessels; considerably more than the 24 vessels observed in June 1972. The largest Soviet fishing continues to be for groundfish (20 vessels), Alaska pollock (5 vessels) and Pacific ocean perch (8 vessels). The fleet dwindled rapidly as the month progressed and by its end only about 30 vessels remained fishing off Alaska, a number only slightly higher than a year ago.

The Republic of Korea is increasing its fishing activities off Alaska. This June, 12 vessels were sighted compared to only 5 last June. They fished for herring, ocean perch, and Alaska pollock.

Active surveillance of foreign fleets by National Marine Fisheries Service patrols, conducted with the support of the U.S. Coast Guard, obtained circumstantial evidence that some Korean vessels might have fished illegally for salmon and that the Japanese crab fleet was setting nets within the U.S. contiguous fishing zone. For details see page 6, para. 1 and 2. The evidence was turned over to the U.S. Department of State.

There is no information on the penalties imposed by the Japanese Government on 3 salmon gillnetters which fished salmon illegally 600 miles east of the abstention line in May 1973 (see May report, page 1a). Off the *Pacific Northwest* (Washington and Oregon states) and off *California* from 60–70 vessels fished mainly for Pacific hake, although there were reports of some incidental catches of rockfish. Over 20 of these vessels fished off northern California during the second half of June.

In the Gulf of Mexico, all foreign vessels sighted were Cuban. They were engaged in two fisheries: about 10 vessels were fishing for shrimp off the coast of Texas; the remaining 15 vessels were fishing snappers off Florida. Their location is shown in figure 4. The snapper fishery is traditional for Cuban fishermen. The shrimp fishing off Texas, however, indicates a disturbing increase in effort. In recent years, the Cuban Government has bought 90 shrimp trawlers in Spain and 30 in France. In addition, only a few months ago, new orders for shrimp trawlers were placed in Peru. Domestic Cuban shipyards also continue to build shrimp trawlers of the *Lambda* class. Altogether, Cuba today has a fleet of over 300 shrimp vessels. During the past years, this large fleet fished off the coast of Brazil and the Guianas, as well as in the proximity of the Cuban coast. Now, however, there are indications of an increased Cuban shrimp fishery off U.S. coasts. A large shrimp fishing expedition, under Fleet Commander Hernandez, is being readied in Cuba and is scheduled to arrive off Texas in late June.

In the Northwest Atlantic (off the New England States and in the northern mid-Atlantic Bight), the number of foreign fishery vessels decreased greatly compared to the previous month: 168 vessels were sighted in June and 243 in May. The Soviet, Polish and East German fleets were reduced to about 160 vessels, while in May their number exceeded 230. This is a seasonal occurrence and it is believed that—as the autumn fishing gets underway—the number of their vessels will again increase. Unlike in May, no French or Romanian vessels were sighted in June.

Mackerel and herring still constituted the main fisheries, but many other species were also harvested. Both, the Polish and Soviet fleets engaged in a specialized fishery for squid. Polish vessels were making hauls averaging 3–8 metric tons and lasting 4–5 hours. Gear used was mid-water as well as the high-opening bottom trawls. The squid is not fished for Soviet or Polish markets as most other species are; both countries export it to Spain, Portugal and Italy to earn hard currencies. For details see page 8.

During boardings of 14 foreign vessels considerable evidence was gathered indicating that lobsters are taken as incidental catch by foreign fishermen. There was no information on how these lobsters are utilized, except that the Japanese return them to the sea. It is impossible, from the fragmentary data obtained, to estimate the total foreign lobster catch off the U.S. Atlantic coast. Additional details are on pages 8 and 9.

For the first time in a decade, the NMFS international inspection officers were allowed to board an East German side trawler for a courtesy visit.

TABLE 1.—FOREIGN FISHERY VESSELS OPERATING OFF U.S. COASTS DURING JUNE 1973 (EXCLUDING DUPLICATE SIGHTINGS); BY TYPE OF VESSEL AND COUNTRY.

Fishing grounds	Stern trawlers[1]	Medium trawlers[2]	Other fishing vessels	Process and transport vessels	Support vessels[3]	Research vessels[4]	Total
Off Pacific coast:							
Off Alaska:							
Japan	43	111	387	38			579
Soviet Union	19	37		6			62
Republic of Korea	2	8		2			12
Total	64	156	387	46			653
Off Pacific Northwest:							
Japan							
Soviet Union	47	3		5	4	3	62
Other							
Total	47	3		5	4	3	62
Off California:							
Soviet Union	19	3					22
Japan							
Total	19	3					22
In the Gulf of Mexico:							
Mexican							
Cuban		11	11				22
Soviet							
Japanese							
Other							
Total		11	11				22
Off Atlantic coast:							
Soviet Union	33	16	[5]65	17			131
Poland	8	8		1			17
East Germany	3	6					9
Federal Republic of Germany							
Bulgaria	4						4
Romania							
Spain	1	1	[6]2				4
Japan	3						3
Italy							
Norway							
Canada							
Other							
Total	52	31	67	18			168
Grand total	182	204	465	69	4	3	927

[1] Includes all classes of stern factory and stern freezer trawlers.
[2] Includes all classes of medium side trawlers (nonrefrigerated, refrigerated, and freezer trawlers).
[3] Includes fuel and water carriers, tugs, cargo vessels, etc.
[4] Includes exploratory, research and enforcement (E) vessels.
[5] Includes 7 medium stern and 58 medium side trawlers rigged as purse seiners.
[6] Pair trawlers.

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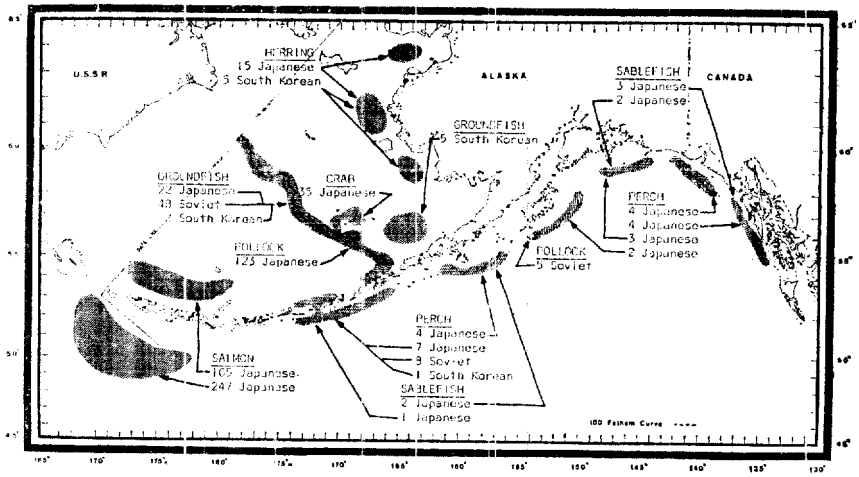

Fig. 1. - Foreign fishing off Alaska in June 1973; by country, number of vessels, principal fishing grounds and species fished.

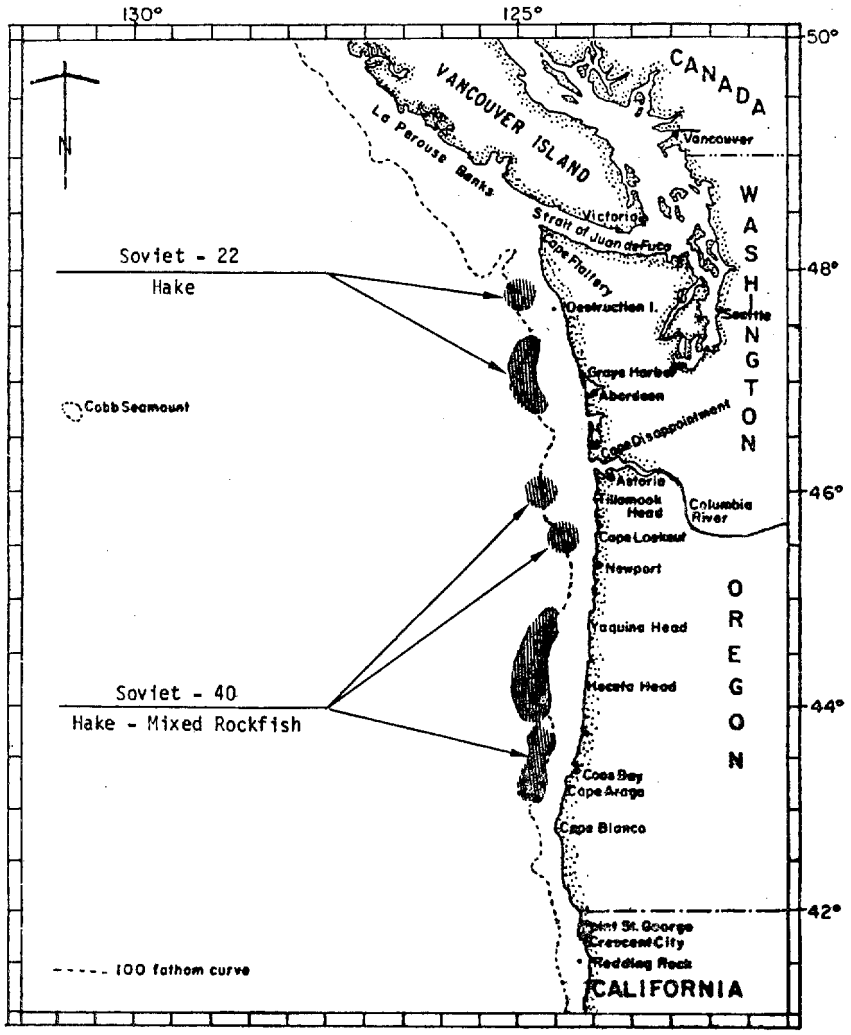

Fig. 2 Foreign fishing off the Pacific Northwest in June 1973; by country, number of vessels, principal fishing grounds, and species fished.

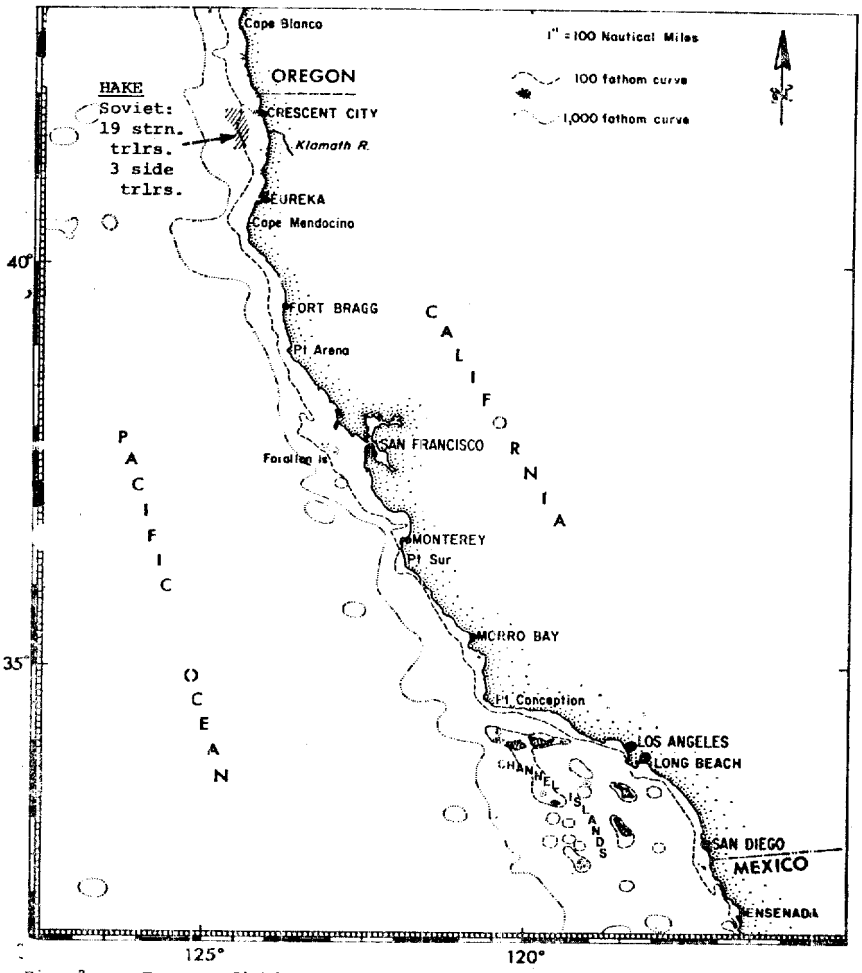

Fig. 3 -Foreign fishing off California in June, 1973, by country, number of vessels, principal fishing grounds and species fished.

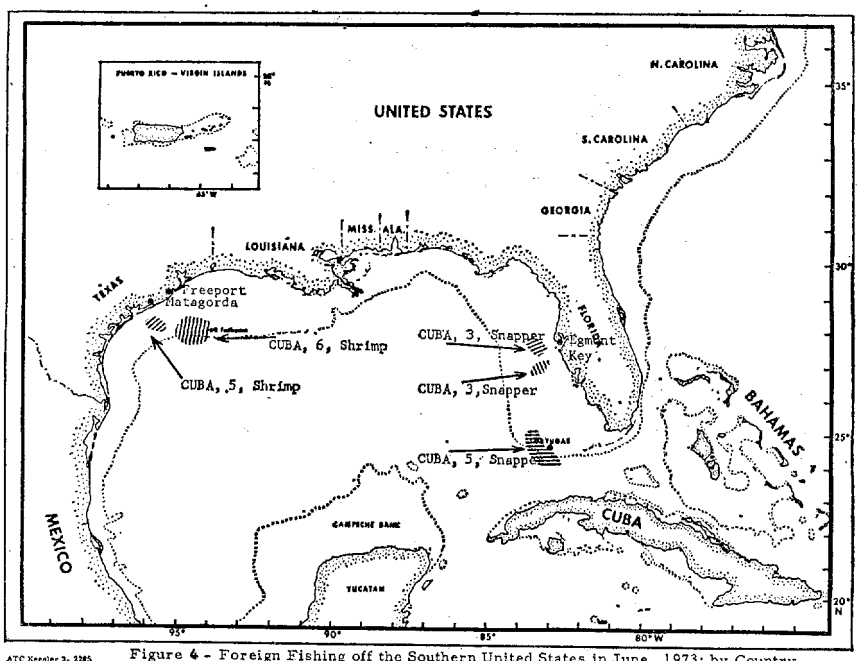

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Figure 4 - Foreign Fishing off the Southern United States in June, 1973; by Country, Number of Vessels, Principal Fishing Grounds, and Species Fished.

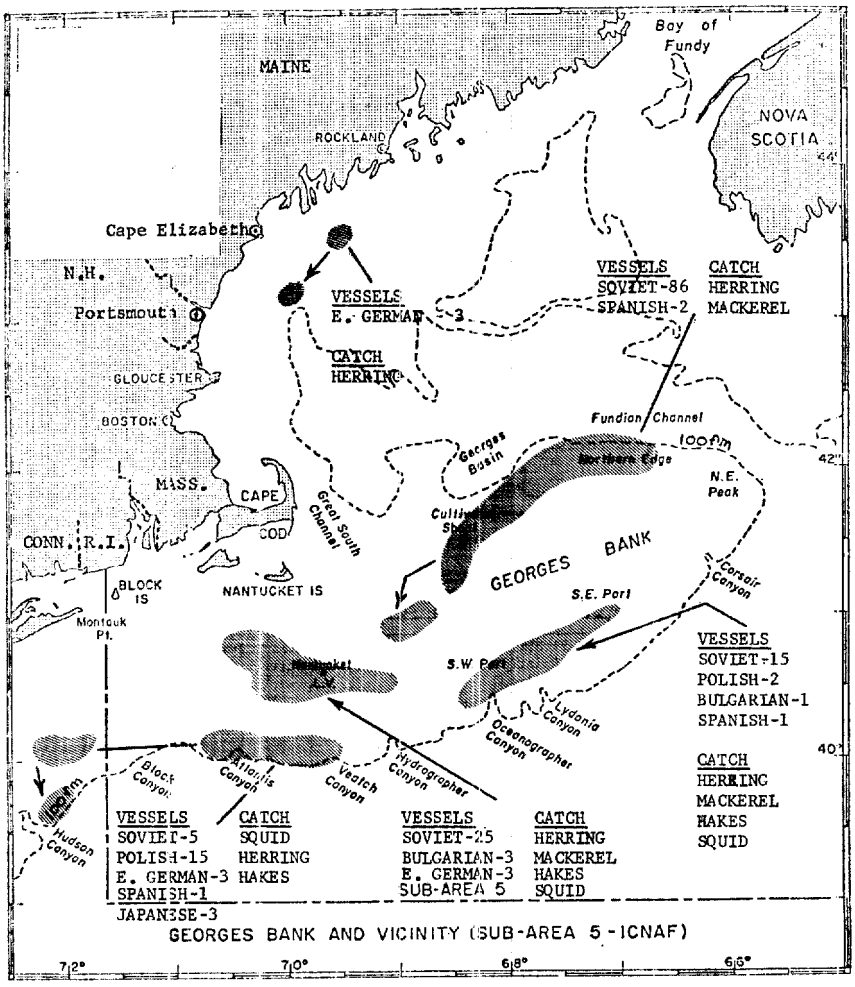
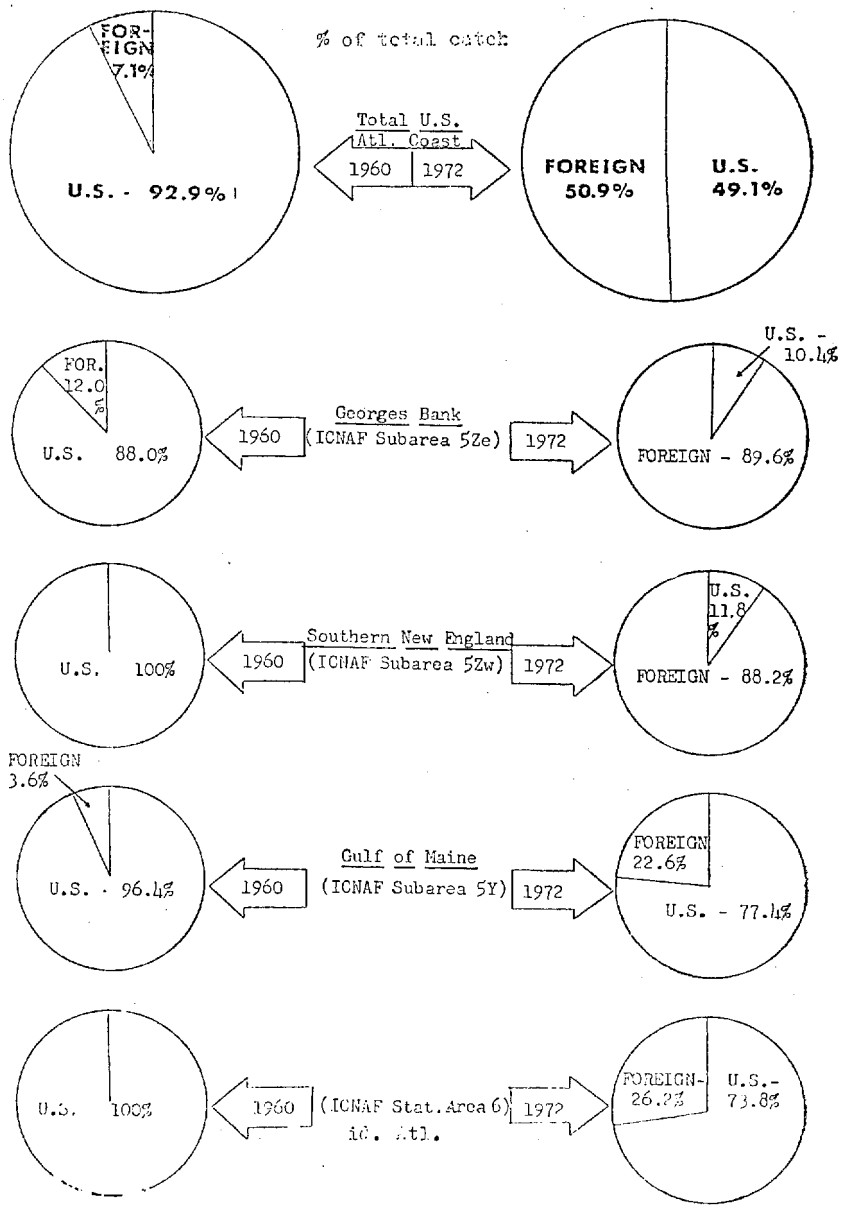
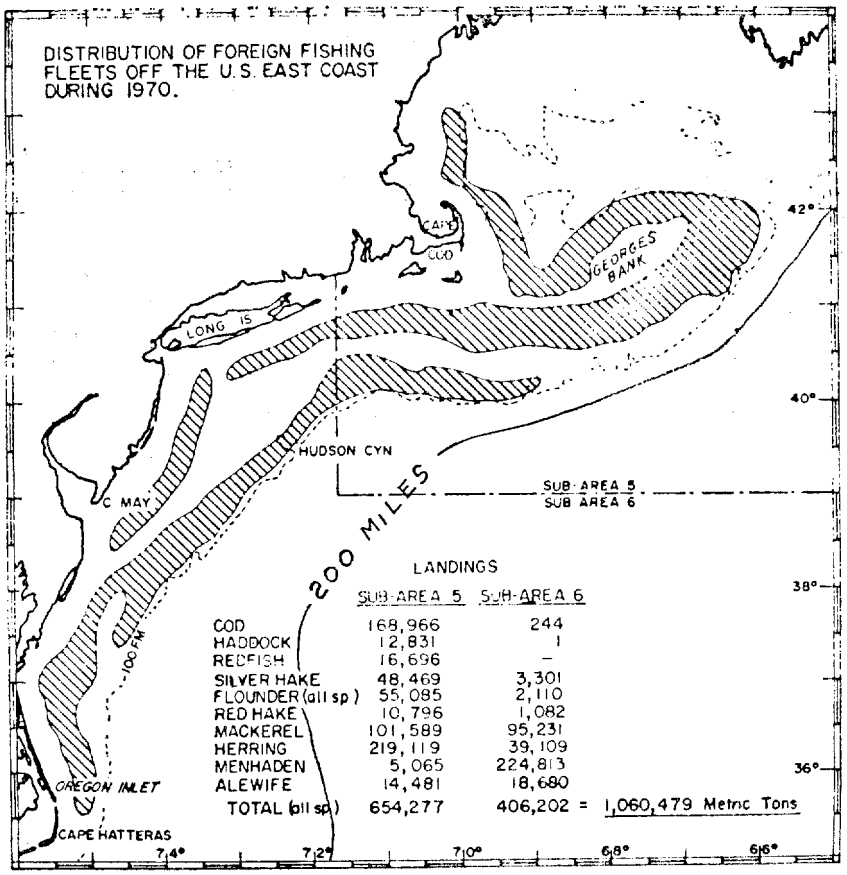


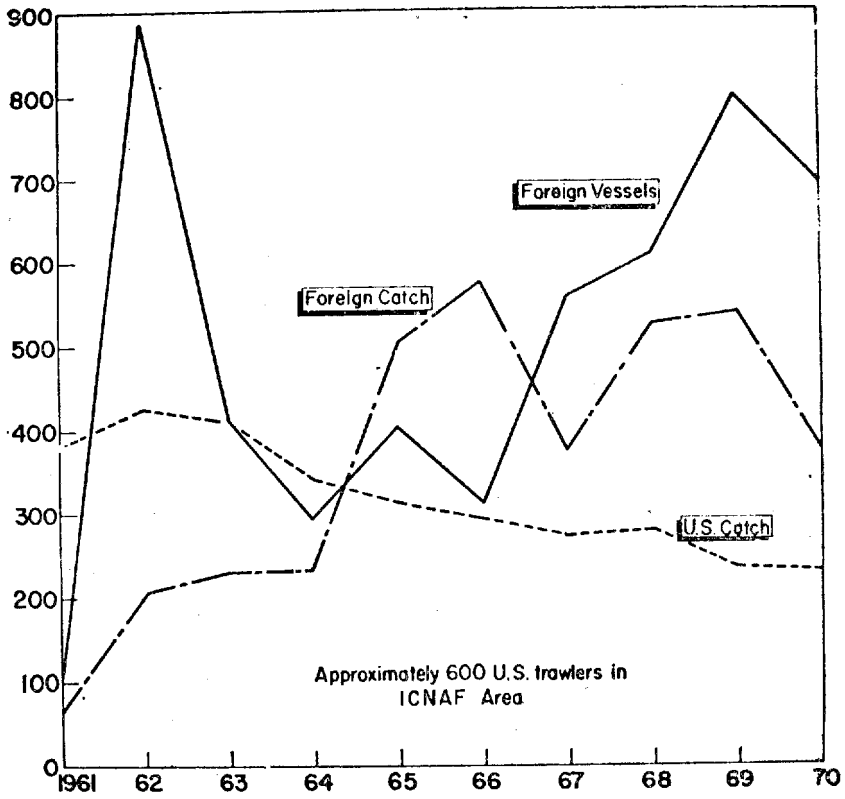
Fig. 5 - Foreign vessels in the Northwest Atlantic in June 1973 by country, number of vessels, principal fishing grounds, and the species fished.





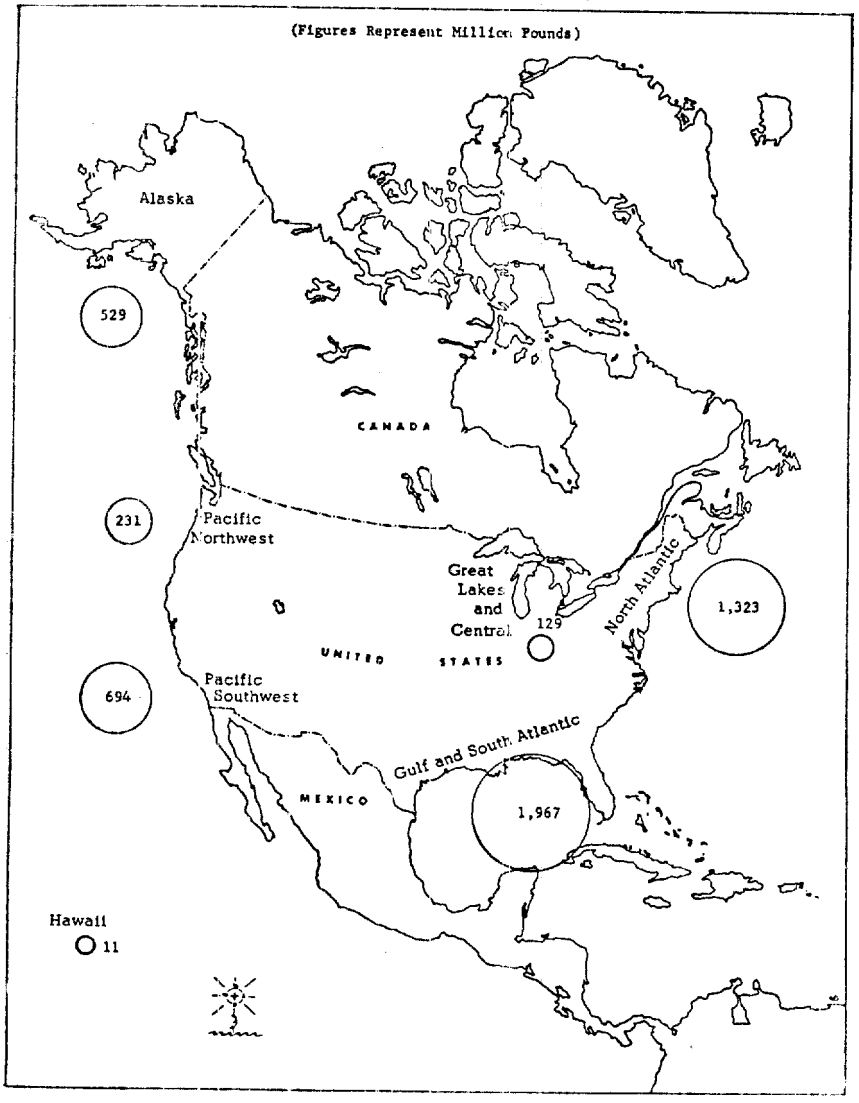
LANDINGS

	SUB-AREA 5	SUB-AREA 6
COD	168,966	244
HADDOCK	12,831	1
REDFISH	16,696	–
SILVER HAKE	48,469	3,301
FLOUNDER (all sp)	55,085	2,110
RED HAKE	10,796	1,082
MACKEREL	101,589	95,231
HERRING	219,119	39,109
MENHADEN	5,065	224,813
ALEWIFE	14,481	18,690
TOTAL (all sp)	654,277	406,202 = 1,060,479 Metric Tons

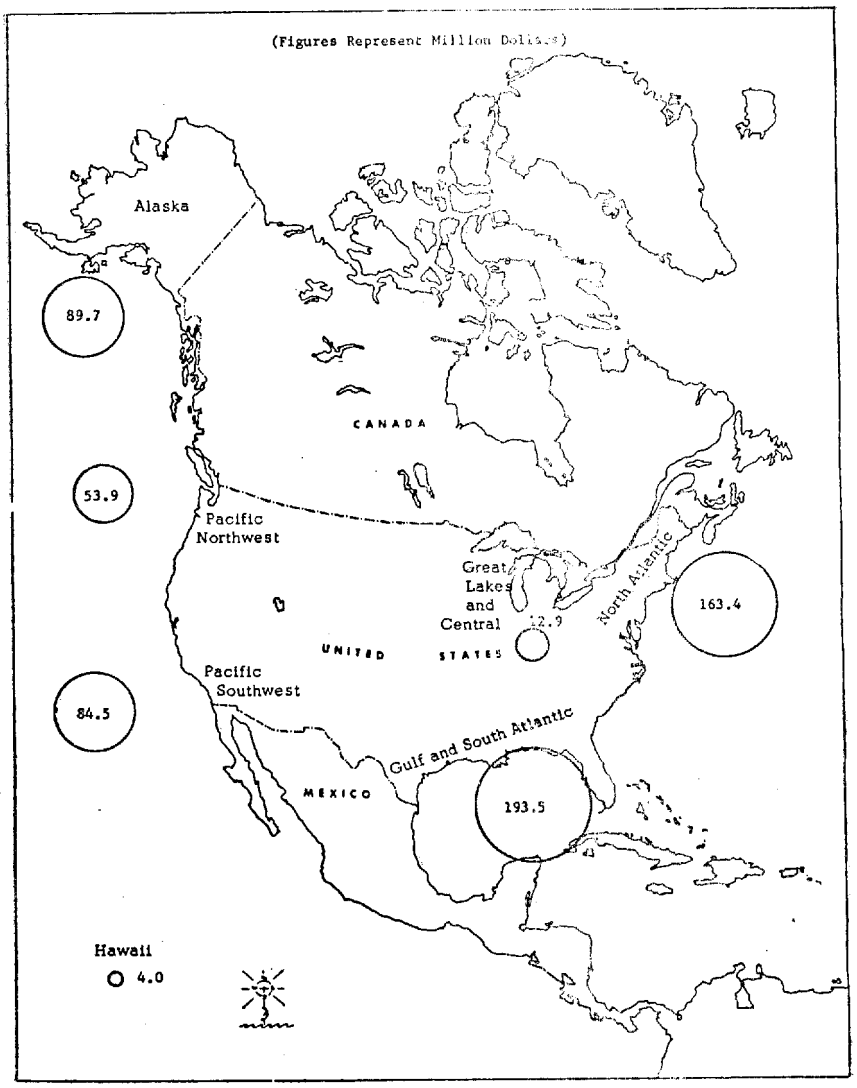


U.S. CATCH

VOLUME OF CATCH BY REGIONS, 1970



VALUE OF CATCH BY REGIONS, 1970



Appendix A: Importance of the U. S. as a coastal fishing nation

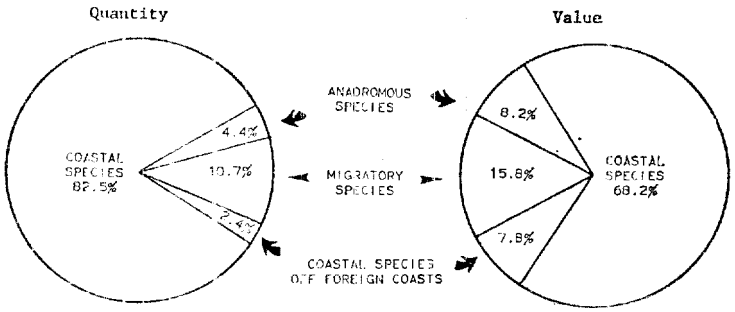


Table 1. Landings and value of U. S. fish and shellfish by major groupings, 1972

Column	1	2	3	4
Fishery	Quantity		Value	
	Million pounds	Percent	Million dollars	Percent
Coastal species	4,037.7	82.5	522.1	68.2
Anadromous species	216.7	4.4	62.8	8.2
Migratory species	524.4	10.7	120.6	15.8
Coastal species off foreign coasts	115.3	2.4	60.0	7.8
Total	4,894.1	100.0	765.5	100.0

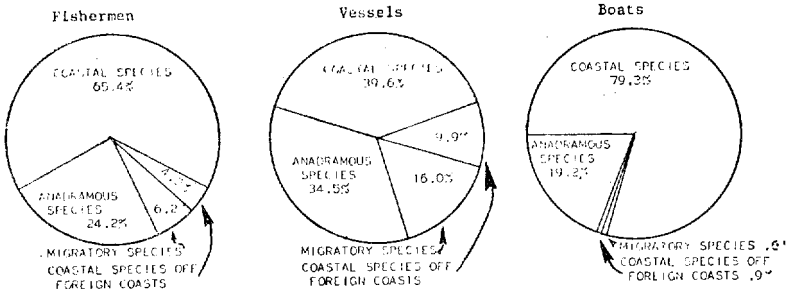


Table 2. Fishermen, vessels, and boats of U. S. fleet by major groupings of species, 1970 estimates

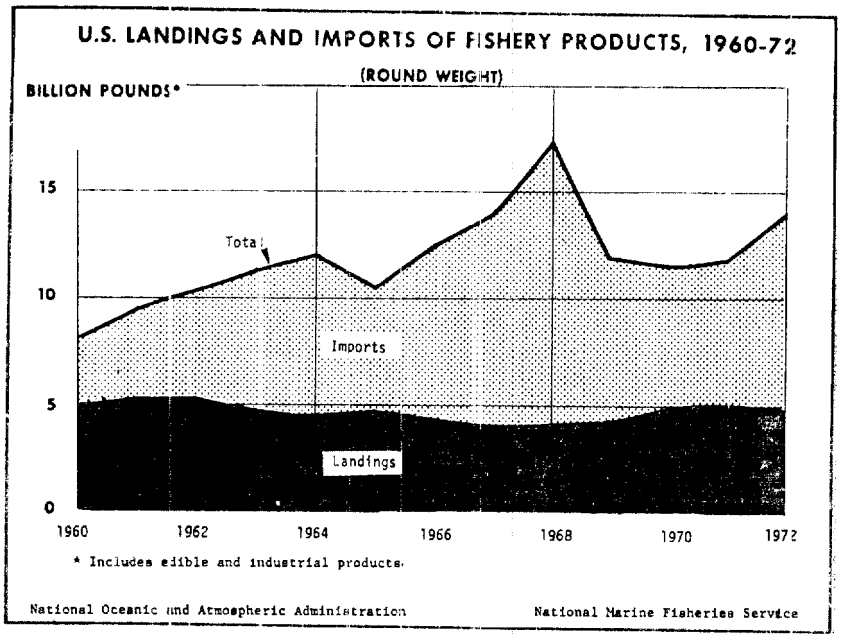
Column	1	2	3	4	5	6
Fleet	Fishermen		Vessels		Boats	
	Number in Thousand	Percent	Number in Thousand	Percent	Number in Thousand	Percent
Coastal species	91.9	65.4	5.4	39.6	58.4	79.3
Anadromous species 1/	34.0	24.2	4.7	34.5	14.1	19.2
Migratory species 2/	8.7	6.2	2.2	16.0	0.4	0.6
Coastal species off foreign coasts 3/	5.9	4.2	1.3	9.9	0.7	0.9
Total 4/	140.5	100.0	13.6	100.0	73.6	100.0

1/ Includes all Alaska and Pacific N. W. salmon fishery.

2/ Includes all Tropical and Albacore tuna fishery.

3/ Includes portion of North Atlantic groundfish, Gulf of Mexico shrimp fishery, snapper-grouper fishery, and Gulf spiny lobster fishery.

4/ The total is exclusive of duplication. The 1970 distribution among the four fleets was made from 1969 data where the coastal fleet was the residual.



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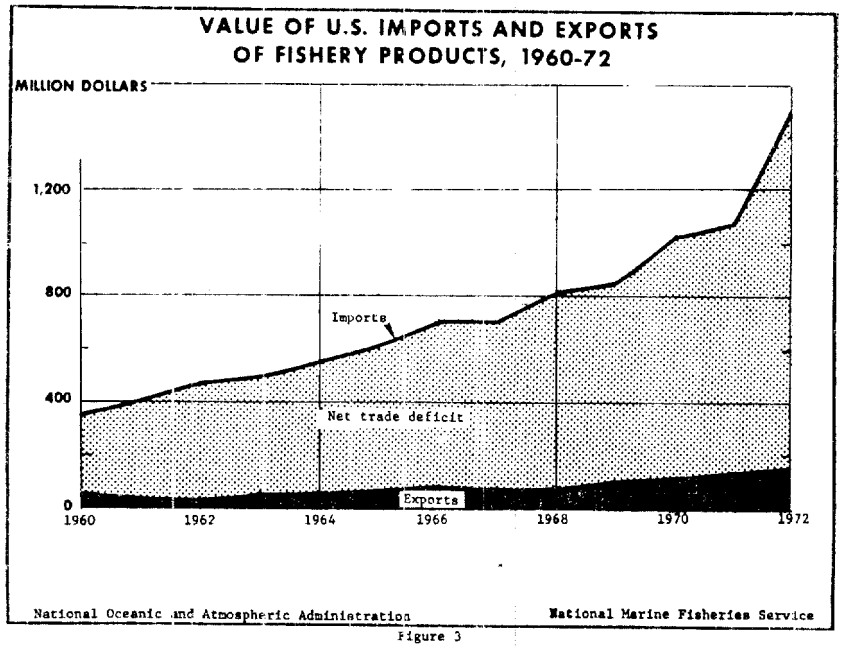


Figure 3

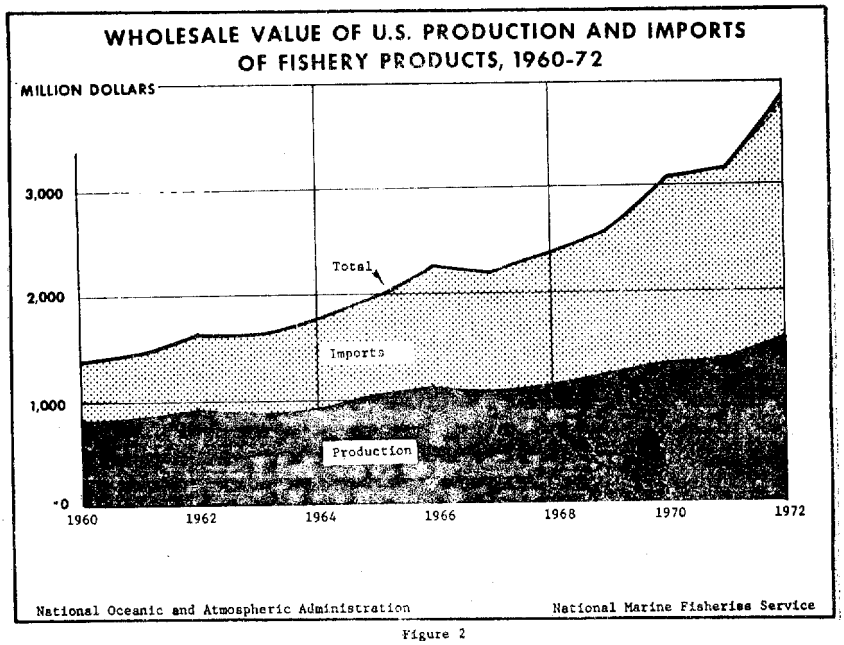
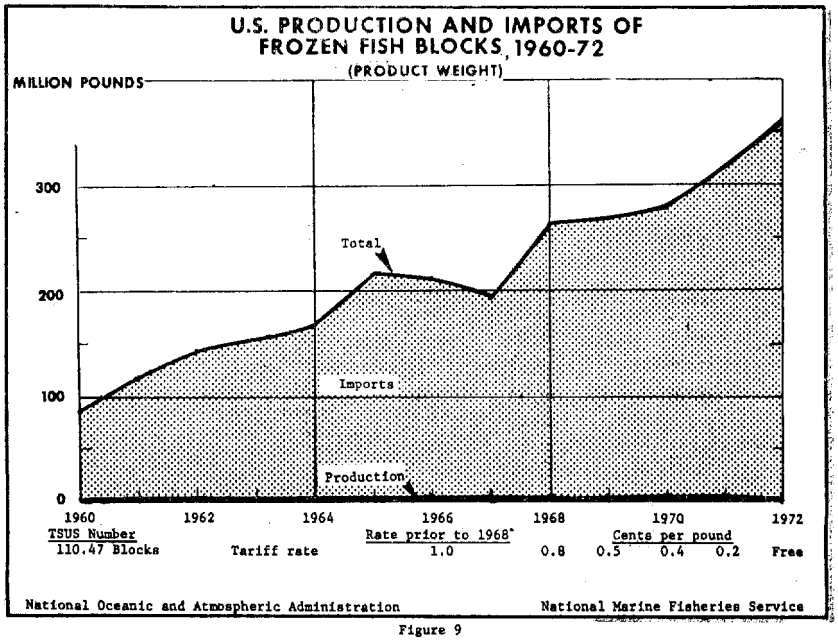


Figure 2



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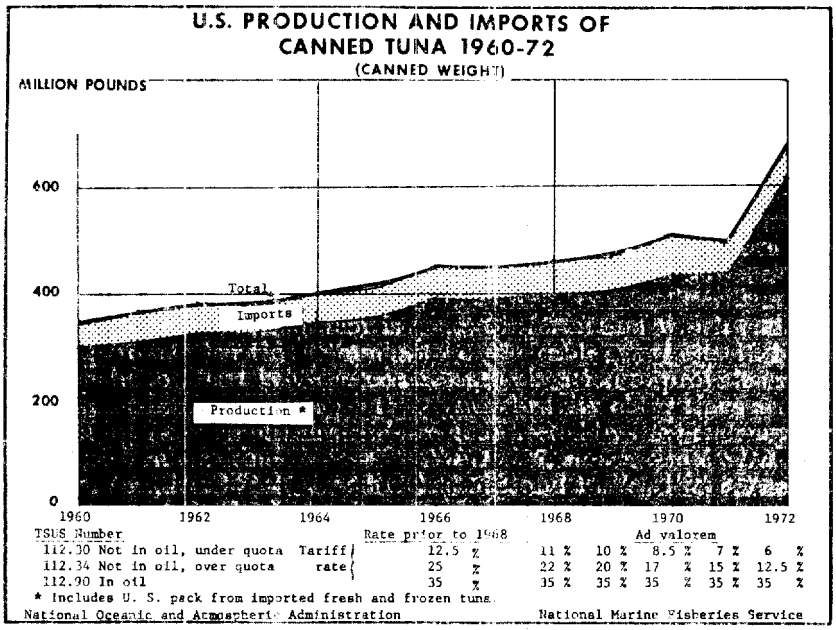

Figure 12

U.S. PRODUCTION AND IMPORTS OF CANNED TUNA, 1960-72

Year	Pack from domestic catch 1/	Pack from imported fresh and frozen 2/	Total	Imports 3/ In brine Under quota	Imports 3/ In brine Over quota	Imports 3/ In oil	Imports 3/ Total	Total production and imports
	Thousand pounds 4/							
1960	142,638	158,750	301,388	50,322 (53,448) 5/	-	596	51,755	353,143
1961	163,853	146,759	310,612	56,210 (57,115)	-	431	58,663	369,275
1962	147,586	187,920	335,506	54,379 (59,059)	-	358	56,719	392,225
1963	160,822	165,890	326,712	56,414 (63,131)	-	224	57,494	384,206
1964	154,208	195,626	349,834	52,931 (60,912)	-	201	54,647	404,481
1965	161,515	196,890	358,405	49,204 (66,059)	-	211	50,961	409,366
1966	153,231	241,037	394,268	57,987 (65,662)	-	160	61,560	455,828
1967	183,236	205,609	388,845	62,275 (69,472)	-	186	65,321	454,166
1968	176,524	219,433	395,957	64,907 (66,985)	-	150	67,173	463,130
1969	181,786	216,651	398,437	71,333 (71,703)	-	158	73,116	471,553
1970	203,531	234,109	437,640	70,146 (70,146)	902	153	72,262	509,902
1971 6/	194,967	243,774	438,741	55,638 (57,296)	-	1,050	59,842	498,583
1972 6/	230,333	386,282	616,615	54,449 (78,532)	-	384	56,513	673,128

1/ Includes pack from the U.S. catch landed in Puerto Rico.
2/ Includes tuna canned in American Samoa from foreign-caught fish.
3/ Data on imports may not add to total because imports in brine are from the Bureau of Customs and the total imports and exports in oil are from the Bureau of the Census.
4/ Canned weight.
5/ Number in parenthesis is quota.
6/ Preliminary.

Source: Data published in Fisheries of the United States, Canned Fishery Products, and Imports and Exports of Fishery Products.

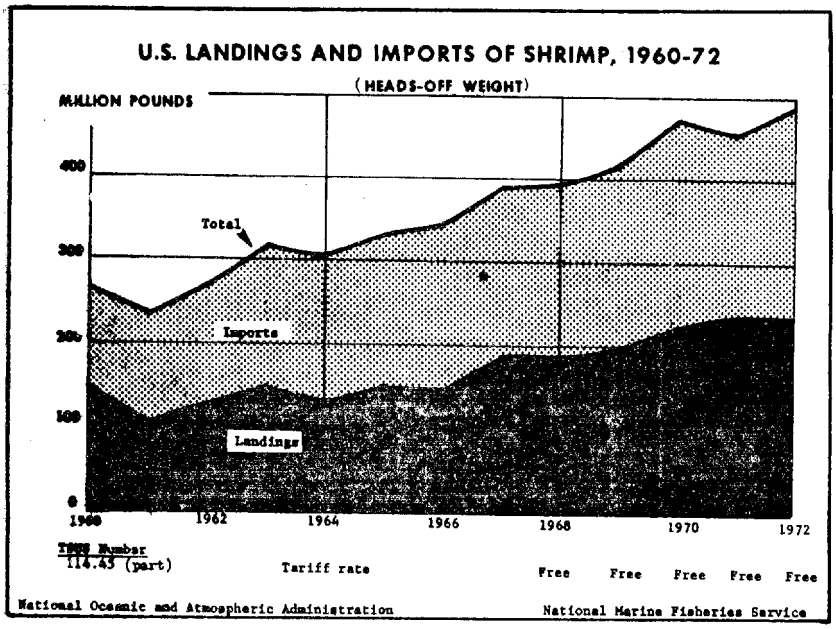

Figure 25

U.S. LANDINGS AND IMPORTS OF SHRIMP, 1960-72

Year	Landings	Imports	Total
	Thousand pounds 1/		
1960	148,483	119,139	267,622
1961	103,865	134,564	238,429
1962	119,154	152,504	271,658
1963	150,737	167,344	318,081
1964	133,113	169,510	302,623
1965	152,346	178,955	331,301
1966	148,255	194,946	343,201
1967	189,972	202,105	392,077
1968	184,065	210,063	394,128
1969	195,002	218,697	413,699
1970	224,272	245,658	469,930
1971 2/	236,328	213,857	450,185
1972 2/	234,432	253,065	487,497

1/ Heads-off weight.
2/ Preliminary.

Source: Data published in Fisheries of the United States.

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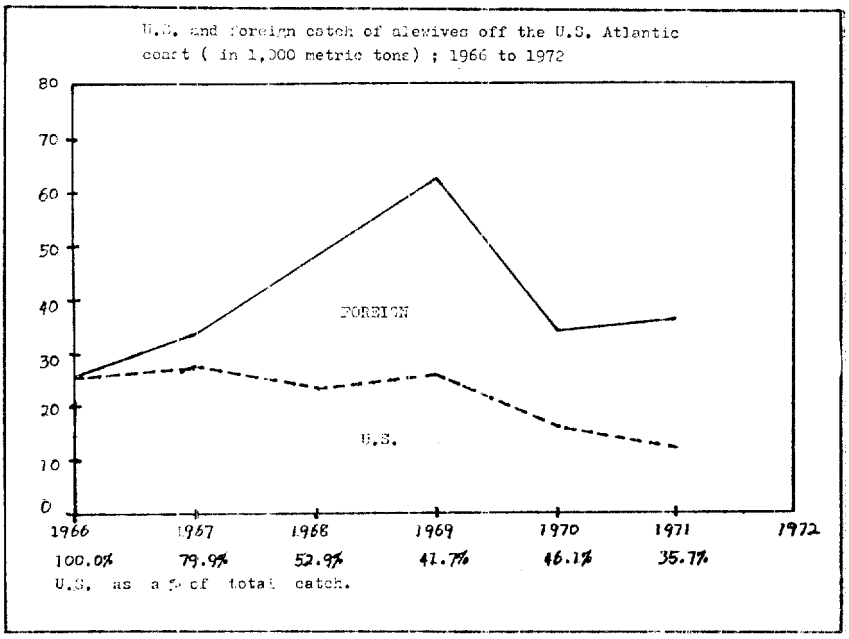
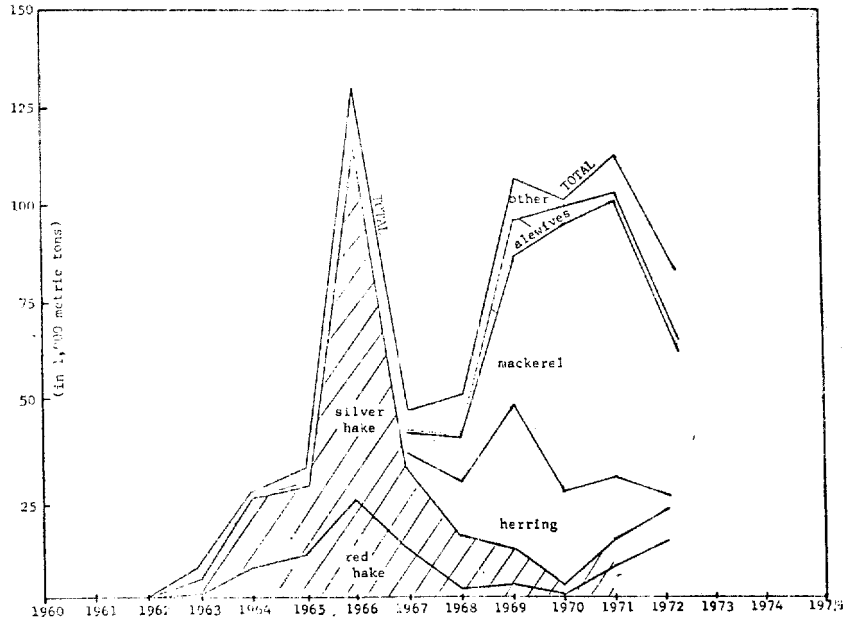




1963-75 - Soviet fisheries catch in the Mid-Atlantic Bight

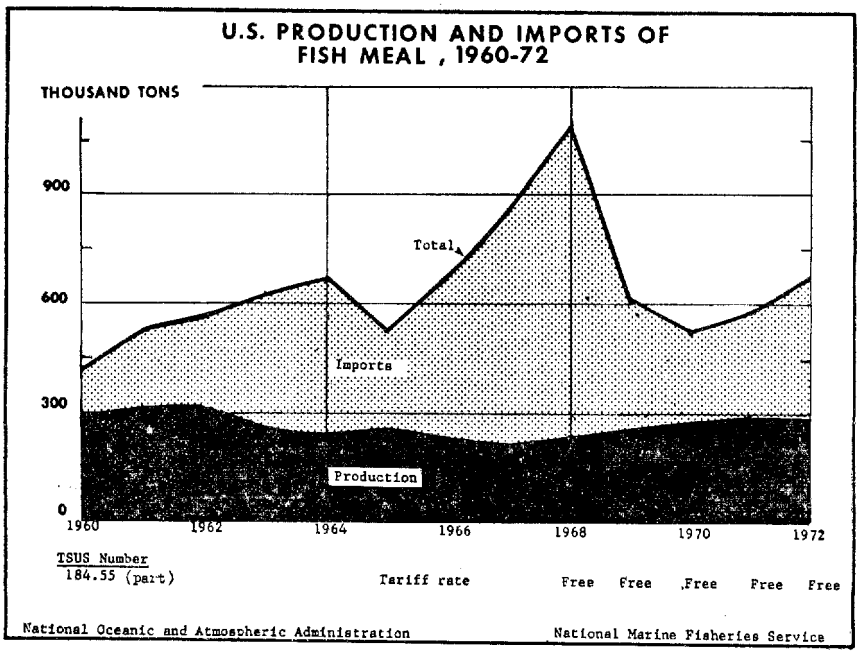


Figure 29

U.S. PRODUCTION AND IMPORTS OF FISH MEAL, 1960-72

Year	Production	Imports	Total
	-Tons-		
1960	290,137	131,561	421,698
1961	311,265	217,845	529,110
1962	312,259	252,307	564,566
1963	255,907	376,321	632,228
1964	235,252	439,143	674,395
1965	254,051	270,589	524,640
1966	223,821	447,784	671,605
1967	211,189	651,486	862,675
1968	235,136	855,285	1,090,421
1969	252,664	358,350	611,014
1970	269,197	251,492	520,689
1971 1/	292,812	283,249	576,061
1972 1/	285,486	391,955	677,441

1/ Preliminary.

Source: Data published in Fisheries of the United States.

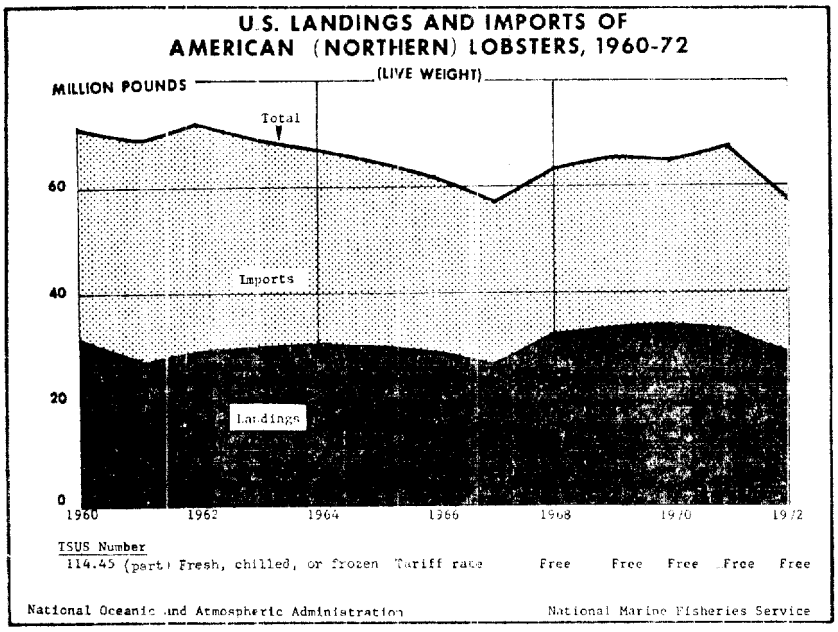
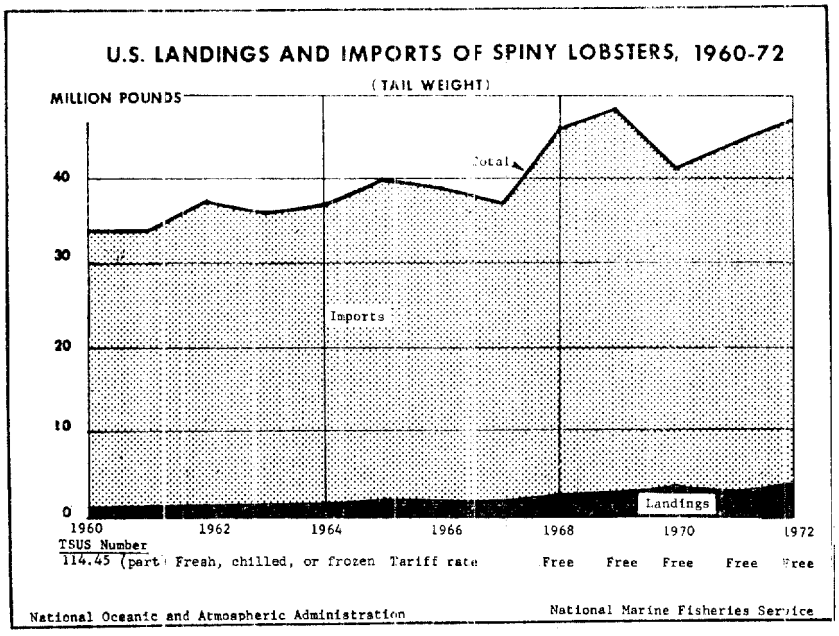


Figure 20



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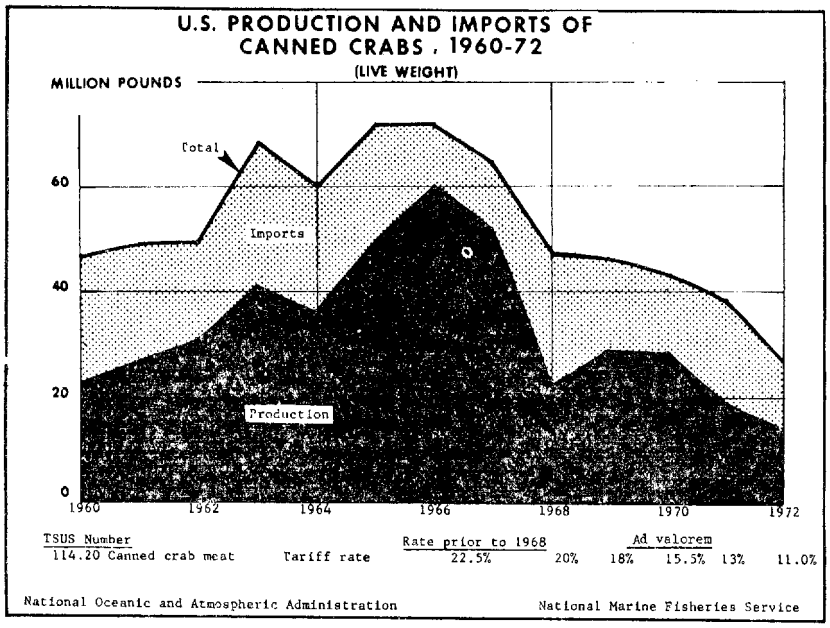

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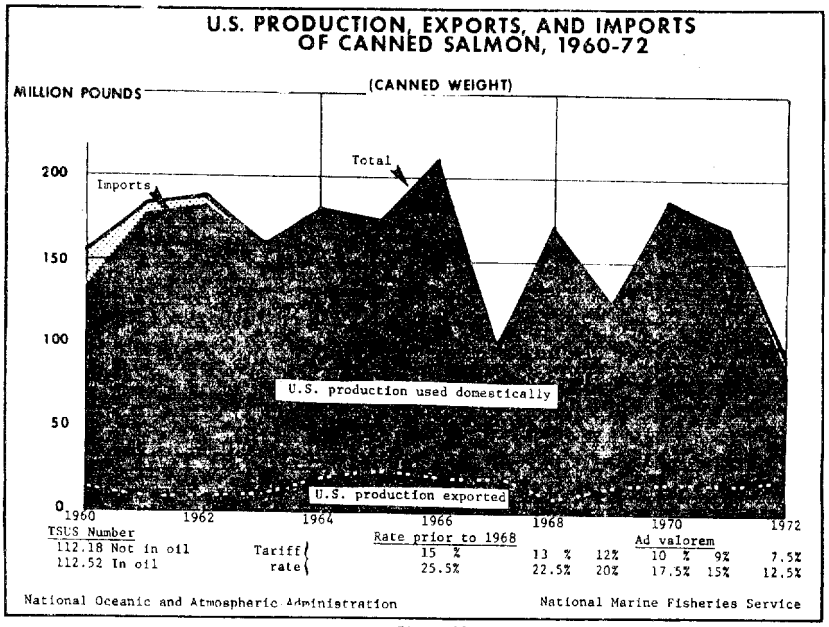

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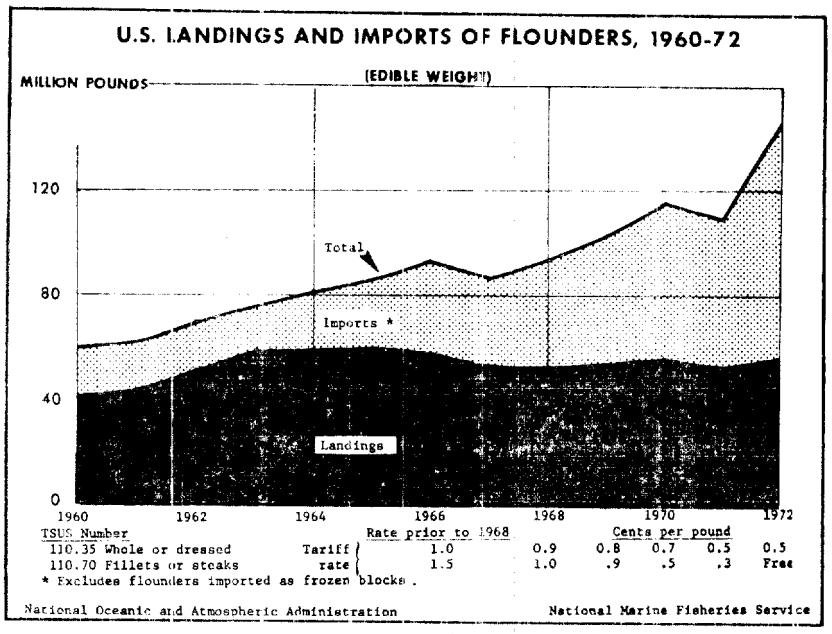

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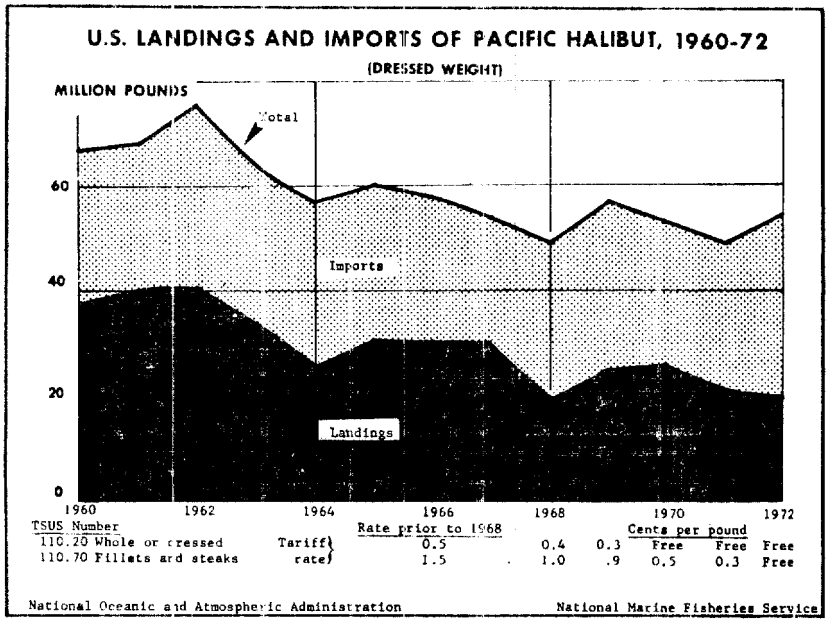

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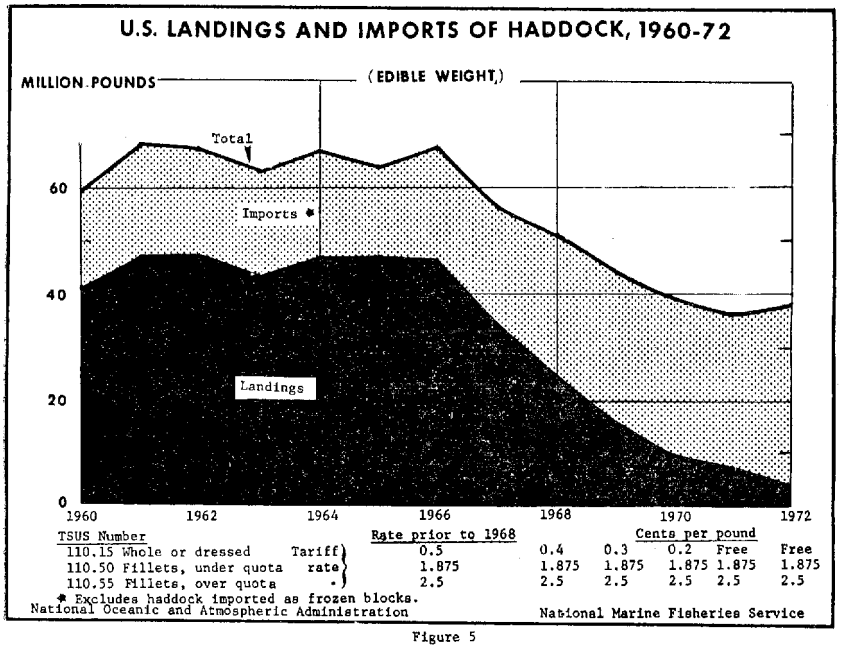

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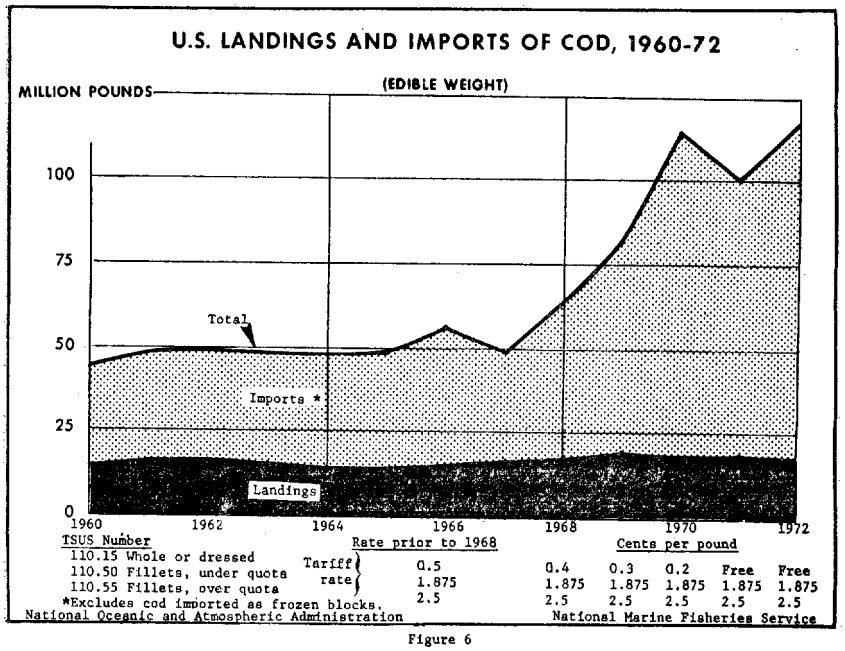

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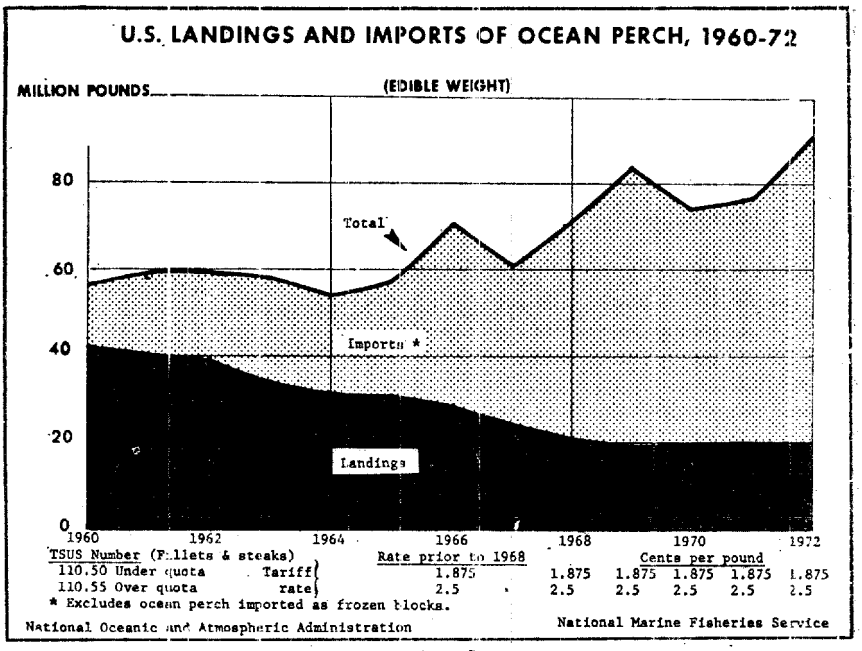


Figure 7

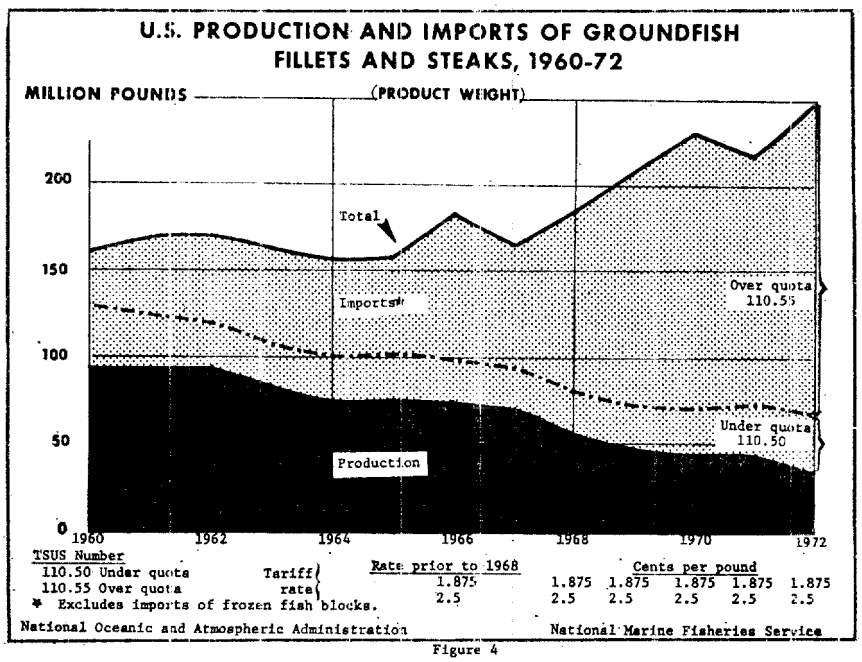


Figure 4

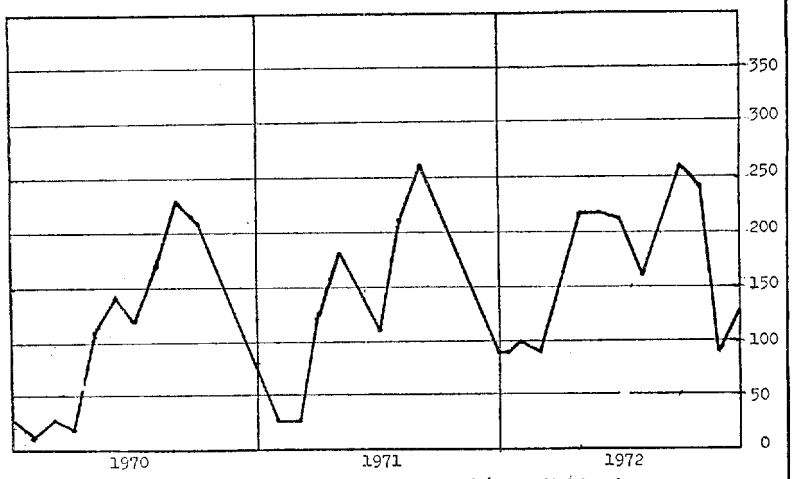
U.S. Fishery Data - 1972

	Coastal & adj. (0 - 200 mi.)	% of Total	High Seas within 200 mi. of foreign shores	% of Total	TOTAL
Part-time FISHERMEN	64,180	100%	-----	---	64,180
Full-time FISHERMEN	80,352	97.6%	2,000	2.4%	82,352
Number of VESSELS*	13,850	96.3%	526	3.7%	14,376
Number of BOATS*	85,100	100%	-----	---	85,100
Pounds of Fish & Shellfish LANDED	4,347,210,000	88.8%	546,890,000	11.2%	4,894,100,000
Dollar value of landings	$609,777,000	79.7%	$155,723,000	20.3%	$765,500,000

(*)Vessels: documented craft 5 net tons & over
Boats: craft under 5 net tons.

Source - NMFS Fisheries of the United States, 1972.

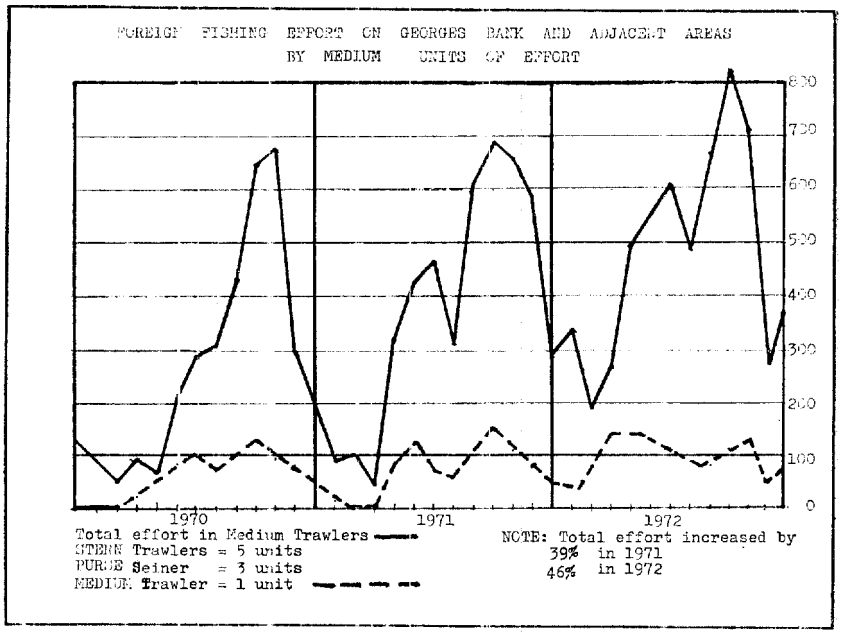
FOREIGN FISHING EFFORT ON GEORGES BANK AND ADJACENT AREAS
By Numbers of Foreign Vessels

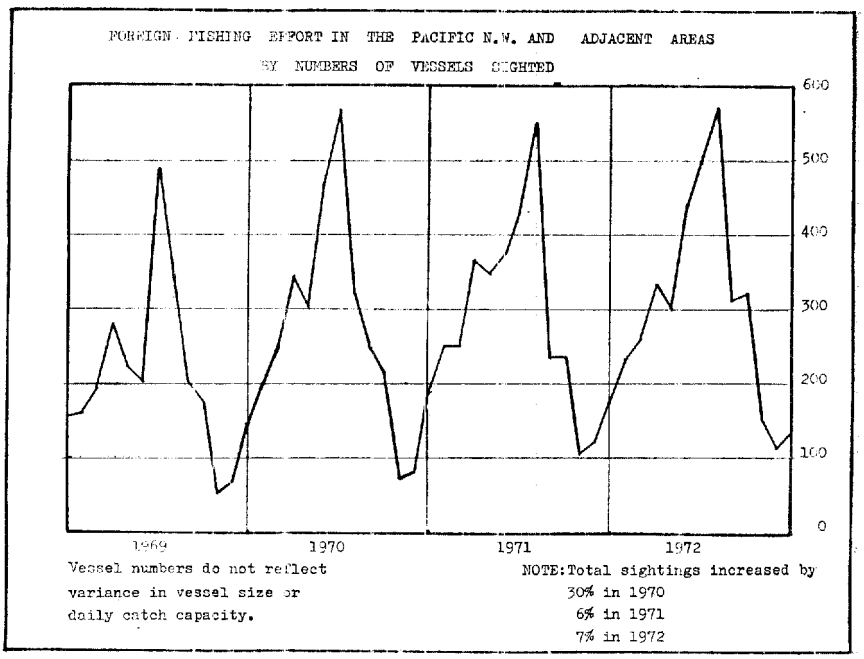


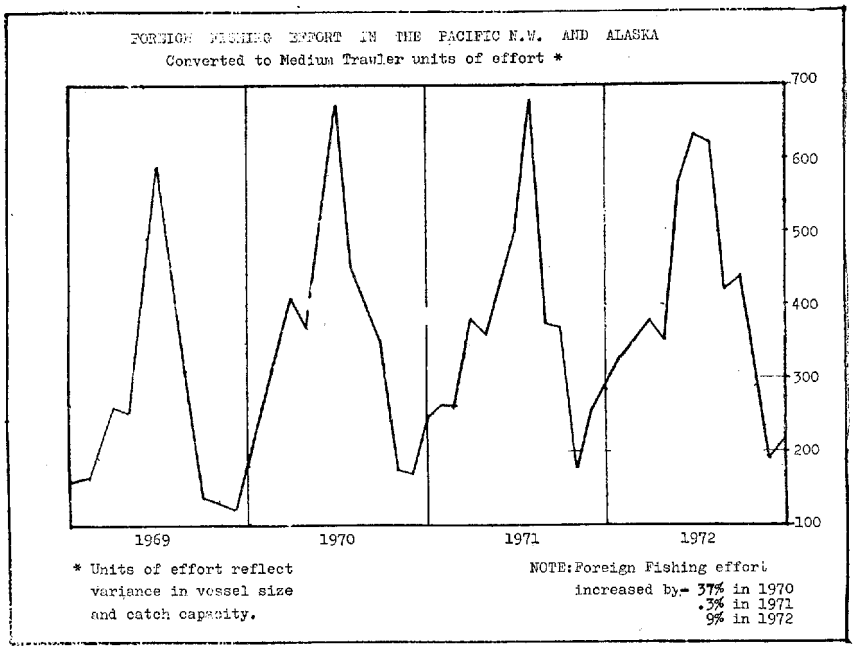
Total Trawlers —

NOTE: Numbers of vessel/days fishing has increased by 18 % per year.

Figures do not reflect variance of vessel size or catch capacity.







Mr. MUSTARD. The first point is that the chances of a successful agreement at the LOS conference in 1975 are very slim at best, just on the mechanical process of nearly 140 nations voting on the 25 major issues, and each issue has anywhere from 10 to 15 subissues. The mechanics of the actual voting process are very lengthy and we doubt very seriously if they are going to be able to accomplish this at the next conference.

The second point is that the U.S. position is not now, as Ambassador Stevenson said, in the mainstream. We are presently left high and dry on the right bank. With over 100 nations, two-thirds of the conference are in disagreement with our full package proposal.

No. 3, the State Department and Defense Department are afraid of retaliatory action of others. History has proven that other nations are going to act in their own best national interest in spite of what we in the United States do or say.

But frankly, with over 100 nations at the conference, most of whom do not care about the present U.S. position in general, and quite frankly could care even less about our defense posture, they already know that the United States has instructions to get a treaty at any cost and the underdeveloped nations and the nations that exploit our coastal resources are going to stand in line and take us for all we are worth in fish, scientific research, and foreign aid and, most assuredly, subversive military passage.

Innocent passage and commerce will remain basically as it is now. For the large majority of small nations to be able to push the United States and the U.S.S.R. military powers around or out of their newly claimed economic zones or territorial seas would be a very large political feather in their caps.

Gentlemen, they are going to do it regardless, treaty or not, to the United States and to the U.S.S.R. equally and together.

The other point is as to passage of the Straits. Approximately 20 countries control the present straits of importance. An LOS outcome of the 12-mile territorial sea is given. The United States and the U.S.S.R. will have to establish bilateral agreements to give free military passage through these waters. The days of common property are over.

How did this principle develop, and why is it no longer valid?

This doctrine dates back to 1609 when Hugo Grotius published an article in "Mare Liberum." Grotius was the international law expert at the time. In fact, anyone who studies his work will admit that in today's time Grotius would probably be a 200-miler unless he was employed by the State Department.

His work would lead other major powers to agree on the need for free transit, which is subtitled "The Right Which Belongs to the Dutch To Take Part in the East Indian Trade."

At this time I would like to submit appendix 2 entitled "Grotius and the Freedom of Fishing in the Modern Context," for the information of the committee and the staff.

[The document follows:]

GROTIUS AND THE FREEDOM OF FISHING IN THE MODERN CONTEXT

(By Richard B. Allen)

(Presented to Dr. John Gamble, in Partial Fulfillment of the Requirements for PSC 464)

When considering jurisdiction over fishery resources it has been common to cite the traditional freedom of the seas as the overriding concern. Reliance on this concept is beginning to falter in the face of the scrutiny and self-interest of the developing nations, who view this tradition as an instrument of the developed nations by which they can maintain their status at the expense of the less developed.

The first scholarly enunciation of the freedom of the seas doctrine is credited to Hugo Grotius. Many lose sight of the fact that Grotius's *The Freedom of the Seas* was subtitled "The Right Which Belongs to the Dutch to Take Part in the East Indian Trade." He was, in fact, employed by the Dutch East India Company, and his writing was not purely academic. As with any writer being paid to promote a specific cause, he could not be expected to give equal consideration to factors which might refute his thesis. Grotius himself warns against jurists who "exercise the authority of their sacred profession not for justice and law, but in order to gain the gratitude of the powerful." However, even if we take Grotius's work as authoritative for his purpose and his time, we cannot transpose his reasoning directly to the present time and apply it to fisheries without some modification.

We must remember that Grotius was primarily concerned with freedom of navigation for commerce, not with freedom of fishing. As Grotius said in the first chapter of his *Mare Liberum*, God spread the necessaries of life out over the world so that different peoples would trade with one another.[1] He, in fact,

[1] In this regard, Georg Borgstrom, in a talk before the International Center for Marine Resource Development, has pointed out the irony of U.S. restrictions on trade with Russia and the East European nations which forced them to develop their fishing fleets to supply themselves with the fish which the United States refused to sell them.

based his "argument on the following most specific and unimpeachable axiom of the Law of Nations, called a primary rule or first principle, the spirit of which is self-evident and immutable, to wit: Every nation is free to travel to every other nation, and to trade with it." It is important to keep this base in mind when evaluating Grotius's statements

We have long been accustomed to viewing our continental resources as necessaries of life which we recover and trade with the world to gain those with which we are not endowed. In contrast to our continental resources, our living coastal resources have been open to all takers. They are now at a point where continued heavy harvesting by any who choose to expend the effort acts to the detriment of all mankind. As Royce (1972) says: "such resources have been especially attractive to large vessel operators who have been able to take quick profits from one stock and move on to another and then to another as the abundance has declined in each. The operators and their governments adhere strongly to the principle of the freedom of the seas, which allows them to fish anywhere in international waters and commonly reject responsibility for maintenance of the resource." To justify such actions by the writings of Grotius is an unwarranted implication that he was seriously concerned with the problem of high seas resources and his solution was the freedom of the seas for fishing. Grotius had no reason to be concerned about over-fishing in the ocean; he wrote at a time when sea fishing was extremely limited and one man's catch had no effect on another's. I intend to show, as Alan Beesley suggested in discussion at the 1971 Law of the Sea Institute Conference, that if Grotius "were here today he would no longer preach the absolute doctrine of the freedom of the high seas" (in Alexander, 1972).

One of Grotius' primary arguments against limiting access to the sea is that one party's use does not preclude another's. As he states: "Why then, when it can be done without any prejudice to his own interests, will not one person share with another things which are useful to the recipient, and no loss to the giver." One can find no fault with this in regards to Grotius' primary concern for free navigation; applied to modern fisheries, however, it is an argument for exclusive control, so devastating has been the effect of the second party's share.

Grotius' reasoning is further expressed by his quote from Vasquez: "But why, it is asked, does the secondary law of nations which brings about this separation (from common to private) when we consider the lands and rivers cease to operate in the same manner when we consider the sea? I reply because in the former case it was expedient and necessary. For every one admits that if a great many persons hunt on the land or fish in a river the forest is easily exhausted of wild animals and the river of fish, but such a contingency is impossible in the case of the sea." Such a contingency, of course, is entirely possible and all too evident. This change in circumstances alone would be sufficient cause to bring fisheries under national conrtol in accordance with the above reasoning.

Grotius, however, showed additional awareness of the need to allow separate consideration of possible fisheries problems: "And if it were possible to prohibit any of those things, say for example, fishing, for in a way it can be maintained that fish are exhaustible, still it would not be possible to prohibit navigation, for the sea is not exhausted by that use."

Certainly Grotius would today show even greater awareness of the difference between common use for navigation and common use for fishing. This separability of fishing from other considerations is one of the major concerns today and relying on Grotius involves a problem of comparing technologies. For his time, Grotius concedes that: "Indeed, if I shall have staked off such an inclosure in an inlet of the sea, just as in a branch of a river, and have fished there, especially if by doing so continuously for many years I shall have given proof of my intention to establish private ownership, I shall certainly prevent any one else from enjoying the same right." He continues with a statement that could have been composed by the Department of Defense: "But ouside of an inlet this will not hold, for then the common use of the sea might be hindered." Grotius had already dealt with that problem, however, by stating that: "If any part of these things is by nature susceptible to occupation, it may become the property of the one who occupies it only so far as such occupation does not affect its common use." He also recognizes the right of nations to make a contract regarding jurisdiction over portions of the sea for certain purposes.

In further support of exclusive fishing rights Grotius implies that one party can prevent another from encroaching on his fishing area as long as the first

party continues to exercise his right; "*jus prohibendi*" is in effect . . . while occupation lasts." Considerations of scale and technology and their effect on resources could surely extend this concept from rivers and inlets to the offshore fishing grounds which have been developed to maximum sustainable yield by one nation and which are threatened with depletion if additional entrants are allowed.

Another of Grotius's primary arguments is that occupation leading to possession of the sea is impossible. As he says: "It has therefore been demonstrated that neither a nation nor an individual can establish any right of private ownership over the sea itself (except inlets of the sea) inasmuch as its occupation is not permissible either by nature or on grounds of public utility." He admits, however, that "according to Marcianus, whatever has been occupied and can be occupied is no longer subject to the law of nations." Grotius would accept "the erection of buildings or some determination of boundaries, such as fencing in," as evidence of possession. Buildings in the form of oil derricks and navigational structures have been built far beyond narrow zones of national sovereignty. Technology has also brought about the use of "imaginary lines" as "a recognized method" of delimiting boundaries, requiring no physical demarcation.

The fact that the land itself was once *res communes*, and that by Grotius' time inlets of the sea were considered susceptible to private control leads one to the progressive conclusion that the entire sea would one day be under some type of sovereignty. In a way it seems that the progression of national jurisdiction skipped over the sea, going on to an equally indivisible quantity according to Grotius, i.e. the air. It is useful to distinguish between air and air space and water and ocean space. Grotius said "that since the sea is just as insusceptible of physical appropriation as the air, it cannot be attached to the possessions of any nation." Air space, however, has been appropriated, and there seems to be no reason why a descriptive law of coordination could not provide for similar appropriation of the sea.

A major reason for this discrepancy between sea space and air space is that most major uses of the sea have been well served by the traditional concept of free access (Kasahara in Alexander, 1972), but nations quickly realized that free access to air space would not be in their best interests. Kasahara also notes that fishery and pollution considerations are no longer well served by free access.

When read from a 20th century vantage point many of Grotius' dogmatic assertions based on 16th century technology and a peculiar mix of the law of nature and the law of nations seem to suffer from obsolescence. Most glaring, perhaps, is his quote from the testimony of Alphonse de Castro, the Spanish theologian: "Such an act (the prohibition of navigation) is not only contrary to the laws, but is contrary also to natural law or the primary law of nations, which we have said is immutable. And this is seen to be true because by that same law not only the seas or waters, but also all other immovables were *res communes*. And although in later times there was a partial abandonment of that law, in so far as concerns sovereignty and ownership of lands—which by natural law at first were held in common, then distinguished and divided, and thus finally separated from the primitive community of use;—nevertheless it was different as regards sovereignty over the sea, which from the beginning of the world down to this very day is and always has been a *res communis*, and which, as is well known, has in no wise changed from that status." One can only ask how an immutable law allowed the division of lands under the law of nations, and why, if such a thing was possible in regard to the land, it is not only possible, but just as likely in regard to the sea. Even Van Bynkershoek, an early supporter of Grotius' principles, stated that Grotius had difficulty squaring fact with theory, "for there can be no reason for saying that the sea which is under one man's control is any less his than a ditch in his territory." Van Bynkershoek then went on to base his argument against wide claims to sovereignty over the sea on the lack of capability to control the areas. He thus suggested the cannon shot rule, which some believe evolved into the three mile limit. Extension of Van Bynkershoek's reasoning through time would also have allowed the closure of large areas beyond even the more extreme present claims.

Similarly weak in its reasoning is the statement of Grotius that "it is impossible to acquire by usucaption or prescription things which cannot become property, that is, which are not susceptible of possession or of quasipossession, and which cannot be alienated. All of which is true with respect to the sea." Again,

one can only ask why all of this is true with respect to the sea. It is often difficult to determine whether Grotius is basing his statements of impossibility on physical or legal grounds, either of which has changed considerably since his time.

Those who continue to support Grotius' conclusions without accounting for the effects of time on his reasoning are guilty of setting "up a law in word but not in fact," a sin attributed to the opposition by Vasquez and quoted by Grotius. Especially embarrassing to those who would transplant Grotius' work directly into the present time are the many references to free passage over foreign territory and similar inconsistencies which have arisen over time. Few would demand today that the shore, as well as the sea right up to the shore, be open to all men. Nor are there many claims that those "things which the sea has carried away from other uses and made its own, such for example as the sands of the sea" or the gold or the oil should be common to all, as they were considered by Grotius.

In summary we can see that Grotius' criteria of inexhaustibility is no longer met by fisheries. As Royce (1972) points out, fishery resources have not been maintained conveniently apart from private ownership, which Grotius recognizes as sufficient justification for abandonment of a common use regime. He would thus permit the separation of fisheries from other considerations and allow nations to make agreements providing for exclusive control over fisheries based on occupation which today is little different on Georges Bank than it was in an inlet of the sea in Grotius' day. Thus we have met the conditions of ownership of both Grotius and Van Bynkershoek and by their own statements they would accept the possibility of some form of jurisdiction over the high seas.

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Mr. MUSTARD. As to the effects of this philosophy, it led the major powers to develop the 1958 and 1960 Geneva Convention. The participants who ratified these two conventions are now a very small minority at the 1974 LOS Conference. The attitudes of many of the new nations and the actual conditions have changed drastically since that time.

At this time I would like to submit appendix 3 for the record, entitled "The 200-Mile Limit and the Law."

The CHAIRMAN. Without objection it will be admitted.

[The document follows:]

THE 200-MILE LIMIT AND THE LAW

(By Christopher M. Weld*)

Since the introduction of the Interim Fisheries Zone Extension and Management Act of 1973 (S. 1988; H.R. 8665), many legal arguments have been employed to attack this bill's underlying assumption: namely, that a coastal nation has the right to extend its jurisdiction over fisheries in coastal waters beyond its territorial sea. The contentions put forward by the bill's opponents are (i) that it violates traditional concepts of freedom of the sea; (ii) that it violates customary rules of international law; and (iii) that it violates the Geneva Conventions of 1958 and 1960.

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S. 1988 was filed in response to the demands of coastal fishermen who were alarmed by the immensity of the fishing effort and the mounting evidence of severe depletion of fish stocks in fisheries traditionally regarded as American. Regardless of differences of opinion concerning the degree of depletion of any given area or species, it is a generally accepted fact that the size and efficiency of the world's fleets of distant-water fishing vessels have the capability of depleting a given fishery in a very short time.[1] It is inarguable also that a number of commercially valuable species traditionally caught in the coastal waters adjacent to the United States have been depleted to the point of being nearly extinct for commercial purposes.[2]

For hundreds of years, the doctrine of freedom of the seas was held to include the freedom of unrestrained fishing in the high seas, and this principle was incorporated in the Geneva Convention on the High Seas.[3] As defined by the Convention, the term "high seas" includes all waters beyond the territorial sea, which until well into the twentieth century at least were generally agreed to be restricted to a distance of three miles from a nation's coastline. Within this three-mile limit, the nation claiming it is entitled to exercise the same full extent of sovereignty and control that it exercises over its land, subject to the right of innocent passage. This doctrine traces back to an essay of Hugo Grotius entitled "Mare Librum," published in 1609, and the notion that all nations are equally entitled to the fish in the high seas was based upon the theory that fish constituted an inexhaustible resource.

Today, fish are increasingly viewed as limited and depletable rather than an inexhaustible resource. The concept of exhaustibility of a fishery has both economic and conservation aspects. First, at some level of intensity of exploitation, there may not be enough fish available in the fishery to provide an economically profitable yield for all fishermen who wish to exploit it. Once the point is reached at which a fishery is in this sense "fully utilized," higher catches by one fisherman will result in reduced catches by others. Given the high fixed costs of fishing operations, unrestricted access and intensive levels of exploitation beyond the point of full utilization may lead to a situation where many participating fishermen will obtain little or no profit from their fishing efforts. Second, the biological characteristics of certain fish species are such that fishing efforts and catches above a certain level of intensity may result in a long-term biological impairment of productivity of the stock, with consequent harm to the fishery as an economic resource.[4]

Add to this the fact that most of the seas' living resources are located in coastal waters 200 miles from shore and also that more of the world's fisheries are overexploited than underutilized at a time when the world's growing population demands ever-increasing amounts of protein, and the reasons for the reexamination of the doctrine of freedom of the seas begin to emerge.

Just as the law of the land evolves in a response to the changing needs and attitudes of the people of any given nation, the changing circumstances of nations is reflected in international law. National law, however, is usually a combination of statute and court practice and operates as a restraint upon the individual who is relatively powerless compared to the state. Because, in international law, the court can obtain jurisdiction only if the parties submit themselves to it, few disputes of real magnitude are tried before the International Court of Justice. There is no authority capable of creating or enforcing statutory law, and the power of individual nations can be very great. The law that governs nations is the law of treaties and customs, and it is said to grow by "progressive developments" which is largely a matter of assertions and mutual tolerances.

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[1] Statement by Dr. James Joseph, Director of Investigations, Inter-American Tropical Tuna Commission, Proceedings from Oregon's 1971 National Discussion Forum 74 (1972) [hereinafter cited as 1971 Oregon Proceedings]; Jacobsen, Bridging the Gap to International Fisheries Agreement: A Guide to Unilateral Action, 9 San Diego L. Rev. 454, 459–461 (1972).

[2] On the East Coast Haddock is a frequently cited example as are halibut and ocean perch on the West Coast.

[3] Convention on the High Seas, open for signature April 29, 1958 [1962] 2 U.S.T. 2312, T.I.A.S. No. 5200, 450 U.N.T.S. 82 [hereinafter cited as Convention on the High Seas].

[4] Bilder, The Anglo-Icelandic Fisheries Dispute, 1973, Wisconsin L. Rev. 37, 45.

With respect to the traditional doctrine of freedom of the seas, there appear to be conflicting "progressive development": on the one hand, the 1958 and 1960 Geneva Conventions and on the other, unilateral declarations of fisheries zones by a growing number of coastal states. The purpose of this paper is to examine the current status of the doctrine of freedom of the seas in order to determine whether the concept of exclusive fisheries zones is compatible with the doctrine as it is now generally accepted by the world community.

I. HISTORIC BACKGROUND

For a century following the discovery of the New World, a closed sea obstructed European commercial development. In 1493 a Borgia pope arbitrarily divided the oceans in two, granting exclusive rights in one part to Spain and in the other to Portugal. A new order emerged following England's defeat of the "Invincible Armada" in 1588 and the subsequent establishment of British naval supremacy. As the seas were freed from the Spanish-Portuguese monopoly, colonies sprang up in North America and other parts of the world; the volume of world trade expanded substantially; and Europe began its modern economic growth.

A new juridical regime was established at the beginning of the seventeenth century to provide a justification for the new economic order. In a work published after "Mare Librum," Hugo Grotius, a spokesman for Dutch commercial interests concluded that the seas were open to all due to their inherently indivisible nature.[5] In time, the principle that no state could impose its sovereignty upon the sea became widely adopted and was further justified by the notion that its resources were inexhaustible. It followed that fish were a "free good" available to whomever made the effort to catch them.[6] Gradually, exceptions were made; among them exceptions for piracy, control of the slave trade, hot pursuit and rescue. But the most important was the doctrine of the "territorial sea," formulated in the late eighteenth century.

The first measure of coastal state's seaward jurisdiction was the "common shot rule." A coastal state could exercise jurisdiction as far as its cannon would fire. Later, three miles was adopted as a uniform limit on jurisdiction. The three-mile limit has never been universally accepted as a maximum limit, nor has it ever been sanctioned by a general international convention, in spite of three attempts to codify it.[7] Since the eighteenth century, a number of countries, including the United States, have asserted exceptions to the three-mile limit and bent the doctrine of freedom of the seas to serve special purposes.

The movement away from absolute freedom of the seas gained momentum during the Presidency of Franklin D. Roosevelt, who tended to overlook the three-mile rule when, in his opinion, it inadequately served United States economic and military policies. The U.S. move away from the doctrine of absolute freedom of the sea came to a climax with the Truman proclamations of 1945.[8] Beginning with Mexico in 1945 and followed shortly by Argentina and Chile, a number of Latin American nations, in reliance upon the Truman proclamations, claimed fisheries jurisdiction and in some cases total sovereignty to a distance of 200 miles from shore. In 1945 no United States fishing interests existed in the area affected by the Mexican proclamation. When other nations jumped onto the 200-mile bandwagon, however, representatives of the booming California tuna fleet served notice on the State Department that they expected to expand operations into Latin American waters in the near future. Thereupon, the United States

[5] H. Grotius, De Juri Belli Ac Pacis, (F. Kelsey trans., 1925), 190–91.
[6] I. E. Vattel, Law of Nations, 1758, (C. Fenwick trans., 1916), 106–10.
[7] Loring, "The United States-Peruvian Fisheries Dispute;" 23 Stanford L. Rev. 391.
[8] Presidential Proclamation No. 2667, Policy of the United States with Respect to the National Resources and Seabed of the Continental Shelf (1945); 3 CFR § 67 [hereinafter cited as Truman Proclamation on the Continental Shelf]; Presidential Proclamation No. 2668, Policy of the United States with Respect to Coastal Fisheries in Certain Areas of the High Seas (1945); 3 CFR § 68 [hereinafter cited as Truman Proclamation on Fisheries].

retreated to the three-mile rule, declaring such to be in the best interests of all nations.[9]

The looming confrontation between coastal nations asserting the right to protect marine resources and overseas fishing nations rejecting such assertions led to the convocation of the Geneva Conventions of 1958 and 1960. Whatever these conventions accomplished, and there is substantial disagreement as to that, neither of them achieved agreement on the breadth of territorial waters and the claims to exclusive fishing zones.[10] Nevertheless, the concept of extended fisheries jurisdiction at least to a distance of twelve miles off shore gained respectability as a result of the Geneva conventions. As of June 1, 1966, thirty-two nations claimed fishery zones to twelve miles from their coasts.[11] The appearance and rapid build-up of large distant water fleets in the Northwest Atlantic and the Northeast Pacific in the early 1960's gave new impetus to demands in the United States, principally from the coastal fishing industry, for increased control over foreign fishing,[12] and the State Department gave the proposed action its blessing on the basis that recent developments in international practice allowed the rule to be in conformity with international law.[13] Thus, in October, 1966 Congress unilaterally extended United States exclusive fisheries jurisdiction to twelve miles.[14] The action was questioned only by the tuna industry, the shrimp industry and legal scholars.[15]

By the beginning of 1973, at least 16 nations had established territorial, fisheries or fisheries conservation limits of 50 miles or more,[16] and the fishing nations were trying to convene a new Law of the Seas Conference. The developing nations tend to regard this effort as an attempt by the United States and the Soviet Union to hold the line against the demands of the developing world for a greater share in control of the ocean's wealth. In this context, it is not surprising that among the developing nations, the concept of freedom of the seas is regarded as little more than a pretext for continued great power control and exploitation of the seabed and fishing resources at the expense of smaller and poorer countries. As a historical footnote, it is interesting to note that this thesis was first asserted in 1938 by Professor Joseph W. Bingham of the Stanford Law School.[17]

II. AMERICAN PRECEDENTS

Today, many of the developing nations tend to regard U.S. assertions of the immutability of the doctrine of freedom of the seas as hypocritical, and, in view

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[9] Loring, *Supra* note 8 at 395.

[10] Bishop, Convention on Fishing and Conservation of the Living Resources of the High Seas, April 29, 1958, 62 Columbia L. Rev. 1205 (1962); Schaeffer, Some Recent Developments Concerning Fishing and the Conservation of the Living Resources of the High Seas, San Diego L. Rev. 371 (1970); Oliver, Wet War-North Pacific, 8 San Diego L. Rev. 621 (1971); MacDougal and Burke, The Public Order of the Oceans, 1962; Bilder, *Supra* note 4 at 49; McKernon, 1971 Oregon Proceedings, 16.

[11] Statement of L. C. Meeker, Legal Adviser, Department of State, 1966 Senate Hearings 21.

[12] Swygard, Politics of the North Pacific Fisheries—With Special Reference to the 12-Mile Rule, 43 Washington L. Rev. 269 (1967).

[13] Agency Report of the Department of State in 1966 Senate Hearings 2.

[14] Act of October 14, 1966, 80 Stat. 908 [hereinafter cited as U.S. 12-Mile Limit Act].

[15] Loring, *supra* note 8 at 409.

[16] Bilder. A partial listing of nations claiming 50 miles or more includes Argentina, Brazil, Chile, Costa Rica, Ecuador, El Salvador, Honduras, Guinea, Nicaragua, Panama, Peru, Uraguay, Iceland, South Korea, Ghana, Pakistan, India and Ceylon, in addition to which Canada extended its jurisdiction to 100 miles for pollution control, and Mexico, Norway and the Peoples Republic of China have indicated plans to extend jurisdiction in the near future.

[17] Bingham, Report on the International Law of Pacific Coastal Fisheries (1938).

of the long history of differing U.S. attitudes toward the doctrine, it is not hard to see why.

In 1886, for example, the United States, citing the right of self protection, attempted to regulate foreign vessels exploiting fur seals in the Bering Sea beyond its three-mile territorial waters. The Anti-Smuggling Act of 1935 granted the President authority "to proclaim an area extending one hundred nautical miles north and south from a point in which a suspected foreign ship is hovering and including all the waters sixty-two miles from the coast within the area of two hundred miles thus designated." [18] Shortly after the outbreak of hostilities between Germany and Poland, the United States called a meeting of hemisphere foreign ministers to discuss mutual defense concerns. The result was the Declaration of Panama of October 3, 1939, which established a 300-mile defense zone around the hemisphere.[19] The American States declared their "inherent right" to have the zone "free from the commission of any hostile act by any non-American belligerent nation," and they agreed to "consult together to determine upon the measures which they may individually or collectively undertake in order to secure the observation of the provisions of the Declaration."

The British government viewed the Declaration as a threat to "the well-established principle of international law relating to the freedom of the seas and the rights of both neutrals and belligerents to utilize the sea as a public highway open to all alike." [20] Following World War II, the zone was extended from pole to pole and made permanent by Article 4 of the 1947 Inter-American Treaty of Reciprocal Assistance.[21] This treaty has led some Latin Americans to question why, if the American states may jointly set 300-mile zones for defense of national interests against foreign military harm, cannot the same states validly establish 200-mile zones for the defense of national interests from foreign economic harm? [22]

In 1945 the Truman Proclamation on the Continental Shelf announced the annexation of the "national resources of the subsoil and seabed of the continental shelf beneath the high seas but contiguous to the coasts of the United States." By way of justification, the proclamation stated "recognized jurisdiction over these resources is required in the interest of their conservation and prudent utilization . . .; the exercise of jurisdiction . . . is reasonable and just . . .; self-protection compels the coastal nation to keep close watch over activities off its shores . . ." Thus, the United States acquired jurisdiction over submerged lands equal in area to the Louisiana Purchase simply by boldly asserting a newly conceived right.[23]

Professor Jon L. Jacobson [24] refers to the Truman Proclamation as the Great Precedent for the Latin American 200-mile claims, the Convention on the Continental Shelf,[25] extra-territorial exclusive fishing zones, such as the U.S. 12-Mile Limit Act and the Canadian anti-pollution legislation.[26] It should be added that

[18] Anti-Smuggling Act of 1935, 19 USC §§ 1701–11.
[19] 5 For. Rel. U.S. 36-37 (1939).
[20] 5 For. Rel. U.S. 29 (1939).
[21] Inter-American Treaty of Reciprocal Assistance, September 2, 1947, 62 Stat. 1681 (1498) ; T.I.A.S. No. 1838.
[22] Loring, *supra* note 8 at 417.
[23] *Id.* at 397.
[24] Jacobson, *supra* note 1 at 455.
[25] United Nations Conference on the Law of the Sea; Convention on the Continental Shelf, open for signature April 29, 1958 (1964), 1 U.S.T. 471, T.I.A.S. No. 5578, 559 U.N.T.S. 285 [hereinafter cited as Convention on the Continental Shelf].
[26] See note 7.

the justification, upon which it is based—namely, reasonableness, the need for conservation, and self-protection, both anticipates and summarizes all subsequent rationalization advanced by proponents of jurisdictional extension.

Truman's Fisheries Proclamation followed his proclamation on the Continental Shelf. It sanctioned the establishment of conservation zones in areas of the high seas contiguous to the United States; it recognized "the right of any state to establish conservation zones off its shores . . ." and rested upon "the inadequacy of present arrangements for the protection and perpetuation of fishery resources," "the possibility of improving the jurisdictional basis for conservation measures," "(the 'special importance' of) fishery resources . . . to coastal communities as a source of livelihood and to the nation as a food and industrial resource; and urgent need to protect fishery resources" and "the special rights and equities of the Coastal State and of any State which may have established legitimate interest therein." Shortly thereafter, Mexico proclaimed its jurisdiction over the continental shelf and fisheries in superadjacent waters, and this claim was recognized by the United States in 1946.[27] When Argentina, Chile and Peru followed the Mexican declaration with assertions of 200-mile jurisdiction, however, the United States, at the urging of the California tuna industry, retreated from the policy stated by President Truman.

Critics of U.S. fisheries policy in subsequent years allege that it has been dominated by the distant-water fisheries industry. Whatever the truth of this may be, 200-mile limits are anathema to U.S. tuna and shrimp boat operators who frequently operate with 200 miles of Latin American coastal nations. They claim that the 200-mile jurisdiction asserted by these nations is asserted for revenue-raising rather than conservation purposes and that any tax imposed upon their catch impairs their ability to compete in world markets. Certainly U.S. policy as articulated by the State Department and sympathetic Congressional action have favored our distant-water fishermen, but U.S. policy touching on issues directly and indirectly relating to the doctrine of freedom of the seas has been highly inconsistent in recent years.

Under the Fisherman's Protection Act of 1954,[28] the federal government compensates vessel owners for fines paid to foreign governments for seizures within a 200-mile limit. At the time that the bill was adopted, the necessity of protecting United States rights on the high seas was cited, and, in practice, the custom of encouraging tunaboat operators not to purchase licenses was held to be an assertion of the principle that U.S. vessels operating on the high seas cannot be subjected to the jurisdiction of any other nation. With the passage of time and the aggregation of fines paid, however, it has come to appear that the United States has, in effect, subsidized Latin American 200-mile limits. This appearance, so contrary to stated intent, has been enhanced by the terms of the United States-Brazilian Shrimp Conservation Agreement,[29] concluded on May 9, 1972, under which the United States agrees to license and limit the catch of American shrimp boats fishing within the 200-mile limit claimed by Brazil and authorizes the Brazilian Navy to police compliance with the arrangements. While the treaty expressly reserves the U.S. position with respect to 200-mile limits, it provides that Brazil may board, search and arrest American fishing vessels believed to be violating the arrangements, and it provides that the U.S. will underwrite Brazil's enforcement expenses. The agreement is a tacit acknowledgement of Brazil's special interest in the fisheries resources off its coast.[30] Adoption of the treaty has been implemented by the passage by Congress of the Offshore Shrimp Fisheries Act of 1973 recently signed into law by President Nixon.

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[27] Note from Acting Secretary of State Clayton to Ambassador Espinosa de los Monteros, Jan. 24, 1946, Department of State file No. 812.0154/12-1445.

[28] Fisherman's Protective Act of 1954, 22 U.S.C. §§ 1971-76 (1964).

[29] Agreement between Brazil and the United States Concerning Shrimp, May 9, 1972, reprinted in 11 Int'l. Legal Materials, 453 (1972).

[30] Bilder, *supra* note 4 at 124.

In contrast to this apparent willingness to adapt to assertions of extended jurisdiction, the Congressional mood of the 1950's and 1960's is reflected by the provisions of the Fish and Wildlife Act of 1956,[31] Senator Thomas Kuchel's "Freedom of the Seas Amendment" to the Foreign Assistance Act of 1965 [32] and the Pelly Amendment to The Fisherman's Protective Act of 1967,[33] all of which seek to protect the rights of U.S. fishermen to fish on the high seas without interference by foreign nations. Nevertheless, the Congressional action of this period was as out of step with the changing attitudes of the international community of that time as the codifications of the 1958 and 1960 Geneva Conferences are with the attitudes of the international community today.

III. THE GENEVA CONVENTIONS

The 1958 Geneva Law of the Seas Conference succeeded in adopting four major Conventions on the Law of the Sea: the Convention of the High Seas, the Convention on the Territorial Sea and the Contiguous Zone, the Convention on the Continental Shelf and the Convention of Fishing and Conservation of the Living Resources of the High Seas.[34] As has already been said, the conference failed to reach any agreement on the crucial issues of the maximum breadth of the territorial sea or the fisheries limits.[35] A second conference convened in 1960, especially for the purpose, also failed to reach agreement on the maximum breadth of the territorial sea and fisheries limit, although a U.S.-Canadian proposal for a territorial sea of six miles plus an additional six-mile contiguous exclusive fisheries zone failed by one vote to receive the necessary two-thirds approval of the Conference. The net result on this score was to reveal a considerable body of opinion supporting the view that a coastal state should be able to claim an exclusive fisheries zone of twelve miles.[36]

The Convention on the High Seas defines the "high seas" as "all parts of the sea that are not included in the territorial sea or in the internal waters of a State" and defines freedom of the seas as follows:

"The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law. It comprises, inter alia, both for coastal and non-coastal States:

"(1) Freedom of navigation;

"(2) Freedom of fishing;

"(3) Freedom to lay submarine cables and pipelines;

"(4) Freedom to fly over the high seas.

"These freedoms, and others which are recognized by the general principles of international law, shall be exercised by all States with reasonable regard to the interests of other States in the exercise of the freedom of the high seas."

While few nations would quarrel with the principles expressed by this provision, many would disagree as to the meaning of the term "high seas," and some might argue that the exercise of the freedom to fish "with reasonable regard to

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[31] Fish and Wildlife Act of 1956, 16 U.S.C. § 742 a–j (1964).

[32] Foreign Assistance Act of 1965, Pub. L. No. 89–171, 79 Stat. 660 (1965).

[33] Fisherman's Protective Act of 1967, Pub. L. No. 90–482 § 3, 82 Stat. 730 (1968).

[34] Convention on the High Seas, *supra* note 3; Convention on the Territorial Sea and the Contiguous Zone, open for signature April 29, 1958 (1964) U.S.T. 1606, T.I.A.S. No. 5639, 516 U.N.T.S. 205; Convention on the Continental Shelf, *supra* note 27; Convention of Fishing and Conservation of the Living Resources of the High Seas [hereinafter cited as the Convention on Fishing], open for signature April 29, 1958 (1966) 1 U.S.T. 138, T.I.A.S. No. 5969, 559 U.N.T.S. 285.

[35] Bishop, *supra* note 11; "(I)t has not been put into practice by the world's great fishing nations or the major coastal nations which have been concerned with fisheries in the past two decades." McKernan, 1971 Oregon Proceedings 16.

[36] Bilder, *supra* note 4 at 51.

the interests of other States" would include the special interest of a coastal state in its coastal waters, which the conference attempted to define in the Convention on Fishing. This convention declared that all States have the duty to adopt "such measures as may be necessary for the conservation of the living resources of the high seas" and that a coastal State has "a special interest in the maintenance of the productivity of the living resources in any area of the high seas adjacent to its territorial sea."

Article 7 of the Convention on Fishing authorized coastal states to adopt "unilateral measures of conservation appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to its territorial sea, provided that negotiations to that effect with other States concerned have not led to an agreement within six months," and provided further that the "following conditions are fulfilled:

(a) That there is a need for urgent application of conservation measures in the light of existing knowledge of the fishery;

(b) That the measures adopted are based on appropriate scientific finding;

(c) That such measures do not discriminate in form or in fact against foreign fishermen."

Except for the fact that this convention contemplated methods of arbitration and settlement of international fishery disputes, which were not then widely acceptable, it might have been embraced by the many nations who favored extended jurisdictions. As it was, nearly eight years passed before enough nations signed the Convention to cause it to enter into effect, and the signatures included none of the major distant water fishing nations. States that have been involved recently in serious fishery controversies and are not signatories include those of the Soviet bloc, Japan, Peru, Chile, Ecuador, Mexico, Iceland and South Korea.[37]

Opponents of S. 1988 have criticized the bill on the grounds that it contravenes the Geneva Conventions. While this is undoubtedly true, the contention that the Conventions preclude the United States from taking action of the nature contemplated by S. 1988 is difficult to sustain. In the first place, only a limited number of nations have signed any of the Conventions, and barely enough nations signed the Convention on Fishing to cause it to become effective. The International Court of Justice has suggested that the Convention on the Continental Shelf, for example, is merely a contractual arrangement among the parties ratifying it and does not reflect customary principles of international law.[38] In the second place, Japan and the Soviet-bloc nations, which would be the nations most immediately affected by unilateral seaward extension of jurisdiction by the United States are not parties to the Convention on Fishing and, therefore, have no right to require that the United States conform to its provisions concerning "unilateral measures of conservation." Because the other three Conventions failed to establish the widths of the territorial sea and exclusive fisheries zones, such Conventions create no basis for objection to the action proposed by S. 1988.

Since 1958, the passage of time and the development of technology have effected a widespread change of attitude toward fisheries zones in the international community.

A tremendous increase in fishing capability and effort has resulted in a growing number of overfished stocks, and the need for sound management has become critical. Thus, unilateral assertions of the right to conserve coastal stocks are being increasingly viewed as anticipatory measures of self-defense to preserve a nation's economic independence and well-being, rather than as a form of territorial aggrandizement. For example, the Foreign Ministers of Norway, Sweden, Denmark and Finland assured Iceland in 1972 of their support for its extension of its fisheries limits.[39] Perhaps worthy of note also is the fact that the Soviets discontinued all fishing operations within the newly-declared Icelandic waters without protest.

CONCLUSIONS

A study of the doctrine of freedom of the seas tells us that it has meant different things in different periods. The seaward boundaries of nations have fluctuated

[37] Bishop, *supra* note 10.
[38] North Sea Continental Shelf Case (1969) I.C.J. 3.
[39] Facts on File 1972, at 714.

widely from time to time, and today's claimed limits of jurisdiction vary from three miles to 200 miles, demonstrating that there is no generally accepted rule of international law regarding the permissible breadth of fisheries limits. In fact, the 200-mile limit is now more commonly accepted within the hemisphere than is any other outer limit of national jurisdiction, and if any one proposition is unanimously supported by all states, it is that international law does not permit extensions beyond 200 miles.

Historically, the United States has tended to assert or ignore the doctrine of freedom of the seas, according to whether the doctrine was consistent with its current purpose. Today, the position with respect to the doctrine is ambivalent. The State Department's declared policy is that 200-mile limits infringe upon the doctrine of freedom of the seas and are therefore contrary to international law. Nevertheless, practice under the Fisherman's Protective Acts of 1954 and 1967 and the Offshore Shrimp Fisheries Act of 1973 clearly constitute a tacit acceptance of the Latin American 200-mile limits

The failure of the Geneva Conventions of 1958 and 1960 to come to an agreement concerning the breadths of the territorial sea and exclusive fisheries zone underscored the lack of a consensus for narrow limits in the international community and gave impetus to seaward extensions of jurisdiction. Although it was endorsed by only a few of the great fishing powers, the Convention on Fishing affirmed and expanded the principle of the special interest of a coastal state in the fisheries in its adjacent waters, first enunciated by the Truman Proclamation on Fishing, and appended to it the duty of conserving marine resources for the benefit of all nations. The doctrine has been given further support by decisions of the International Court of Justice in the North Sea Continental Shelf Cases and the Anglo-Norwegian Fisheries Case.[40]

In 1958 and 1960, few could have anticipated the rapid build-up of the major distant-water fishing fleets and the technological advances in gear and equipment that occurred in the 1960's. At that time, fisheries thinking was still clouded by the concept of unlimited production. Since then, despite greatly increased effort, the rate of growth of the world catch has slowed, while the rate of growth of world demand for seafood and fish products is expanding.[41] An increasing number of the world's fisheries are overexploited, and the need for conservation of the world's fisheries has become urgent and obvious.

The changing relationship of supply and demand has radically altered the value placed upon marine resources by coastal states. Therefore, whatever the significance of the Geneva Conventions as an expression of world opinion and international custom was in 1960 or even in 1966 when the last of them became effective, it has diminished significantly since. Extensions of jurisdiction over coastal fisheries are increasingly justified as serving the interests of all fishing nations by ensuring the continued productivity of protected fish stocks. Nevertheless, the overriding motivation is economic self interest. It is generally accepted that a nation's right to defend itself includes the right to defend itself against economic aggression and to preserve its economic independence and well-being.[42] Accordingly, wherever there is a fully-exploited coastal fishery of significant value to the economy of an adjacent coastal nation, an extension of jurisdiction based on a claim of economic self protection and the need for conservation should be met with broad acceptance in the international community.

It is evident that the international community is rapidly moving toward a system of ocean regulation in which "freedom of the seas" will have a new and more restrictive meaning. Perhaps only the principle of innocent passage will survive the changes of the next decade. In anticipation of the forthcoming Law of the Seas Conference, U.S. State Department spokesman Donald McKernan is on record as having said: "We have . . . been persuaded by the compelling arguments . . . that the coastal state should have the right to regulate the fish stocks inhabiting the coastal waters off its shores as well as its anadromous resources." Thus, it would seem that even the U.S. State Department is changing

[40] North Sea Continental Shelf Case, *supra* note 39; Anglo-Norwegian Fisheries Case (1951), I.C.J. 116.
[41] Shaeffer, *supra* note 11.
[42] Green, International Law & Canada's Anti-Pollution Legislation, 50 Oregon L. Rev. 462, 480–484 (1971).

its position on the legality of seaward extensions of jurisdiction, as usual, trailing world opinion by a substantial lapse of time. In summary, then, a 200-mile limit asserted by one nation "is legal" if it is acceptable to, or at least tolerated by, a great number of other nations. Such assertions of jurisdiction have been made "with increasing" frequency in recent years without provoking significant resistance. The intensity of the over-all world fishing effort has undoubtedly focused world attention upon the desirability of protecting remaining stocks and the attention of individual coastal nations upon the economic value of coastal stocks, thereby creating a climate of acceptance for exclusive fisheries zones.

Mr. MUSTARD. In summation, the international law consisted of conventional law, as mentioned above, and the true test of time is customary law. How many nations would use the law in principle?

The current trend is for nations to claim a unilateral extension of sovereignty or management control. We must ask ourselves which is better, a 200-mile territorial sea or a 200-mile economic zone with a 12-mile territorial sea?

In the interest of the major powers—I emphasize major powers—a 200-mile economic zone is best. So how do we go about establishing a 200-mile economic zone?

The LOS is one solution, but in this we are losing. The other is exemplatory unilateral action, and you can compare S. 1988 and the current official United States-LOS position.

At this time I would like to submit Appendix 4, which is an analysis compared to our present position.

The CHAIRMAN. It will be admitted to the record.

[The document follows:]

COMPARISON BETWEEN S. 1988/H.R. 8665. "EMERGENCY MARINE FISHERIES PROTECTION ACT OF 1974" AND UNITED NATIONS A/CONF.62/C.2/L.47, UNITED STATES OF AMERICA: DRAFT ARTICLES FOR A CHAPTER ON THE ECONOMIC ZONE AND THE CONTINENTAL SHELF

1. 200-mile Contiguous Fishery Zone/200 mile Economic Zone

S. 1988—Sec. 2(b)(2) Purposes.—It is therefore declared to be the purpose of the Congress in this Act . . . (2) to extend, as an emergency measure, the contiguous fishery zone of the United States to 200 nautical miles. . . . Sec. 4(a)(2) The contiguous fishery zone has as its inner boundary the outer limits of the territorial sea, and as its seaward boundary a line drawn so that each point on the line is 197 nautical miles from the inner boundary.

L. 47—Article 2. Limits. The outer limit of the economic zone shall not exceed 200 nautical miles from the applicable baselines for measuring the territorial sea.

2. Coastal State Jurisdiction

S. 1988—Sec. 2(b)(1) Purposes.—It is therefore declared to be the purpose of the Congress in this Act—(1) to take emergency action to protect and conserve threatened stocks of fish by asserting fishery management responsibility and authority over fish in an extended contiguous fishery zone and over certain species of fish belond such zone, until a general international agreement on fishery jurisdiction comes into force or is provisionally applied . . .

L. 47—Article 1. General. 1. The coastal State exercises in and throughout an area beyond and adjacent to its territorial sea, known as the economic zone, the jurisdiction and the sovereign and exclusive rights set forth in this chapter for the purpose of exploring and exploiting the natural resources, whether renewable or non-renewable, of the sea-bed and subsoil and the superadjacent waters. Article 11. General. The coastal State exercises exclusive rights for the purpose of regulating fishing within the economic zone, subject to the provisions of these articles.

3. Coastal Fisheries

S. 1988—Sec. 3(3) As used in this Act, unless the context otherwise requires . . . (3) "coastal species" means all species of fish which inhabit the

waters off the coasts of the United States, other than highly migratory and anadromous species . . . Sec. 4(c) *General.*—The United States shall manage and conserve, and have preferential rights to, fish within the contiguous fishery zone . . . subject to traditional foreign fishing rights as defined and recognized in accordance with section 5 of this Act.

L. 47—Article 13. Utilization. 2. For [the purpose of full utilization], the coastal State shall permit nationals of other States to fish for that portion of the allowable catch of the renewable resources not fully utilized by its nationals, subject to the conservation measures adopted pursuant to article 12, and on the basis of the following priorities . . .

4. Anadromous Species Fisheries

S. 1988—Sec. 3(3) As used in this Act, unless the context otherwise requires—(1) "anadromous species" means those species of fish which spawn in fresh or estuarine waters of the United States but which migrate to ocean waters . . . Sec. 4(b) *Anadromous Species.*—The fishery management responsibility and authority of the United States with respect to anadromous species, for the duration of this Act, extends to such species wherever found throughout the migratory range of such species: Provided, That such responsibility and authority shall not extend to such species to the extent found within the territorial waters or contiguous fishery zone of any other nation.

L. 47—Article 18. Anadromous Species. 1. Fishing for anadromous species seaward of the territorial sea (both within and beyond the economic zone) is prohibited, except as authorized by the State of origin in accordance with articles 12 [conservation] and 13 [utilization]. 2. States through whose internal waters or territorial sea anadromous species migrate shall cooperate with the State of origin in the conservation and utilization of such species.

5. Highly Migratory Species

S. 1988—Sec. 3(3) As used in this Act, unless the context otherwise requires . . . (10) "highly migratory species" means those species of fish which spawn and migrate during their life cycle in waters of the open ocean, including, but not limited to, tuna . . . Sec. 4(a)(3) Notwithstanding any other provision of law, the fishery management responsibility and authority of the United States within the contiguous fishery zone of the United States shall not include or be construed to extend to highly migratory species, except to the extent such species are not managed pursuant to bilateral or multilateral international fishery agreements.

L. 47—Article 19. Highly Migratory Species. Fishing for highly migratory species shall be regulated in accordance with the following principles:

A. *Management.*—Fishing for highly migratory species . . . within the economic zone shall be regulated by the coastal State, and beyond the economic zone by the State of nationality of the vessel, in accordance with regulations established by appropriate international or regional fishing organizations pursuant to this article.

(1) All coastal states in the region, and any other State whose flag vessels harvest a species subject to regulation by the organization, shall participate in the organization. If no such organization has been established, such States shall establish one.

(2) Regulations of the organization in accordance with this article shall apply to all vessels fishing the species regardless of their nationality.

B. *Conservation.*—The organization shall, on the basis of the best scientific evidence available, establish allowable catch and other conservation measures in accordance with the principles in articles 12 [conservation].

C. *Allocation.*—Allocation regulations of the organization shall be designed to ensure full utilization of the allowable catch and equitable sharing by member States.

(1) Allocations shall take into account the special interests of the coastal State within whose economic zone highly migratory species are caught, and shall for this purpose apply the following principles within and beyond the economic zone: [appropriate principles yet to be negotiated].

(2) Allocations shall be designed to minimize adverse economic consequences in a State or region thereof. . . .

6. Foreign Fishing Rights

S. 1988—Sec. 5(a). *General.*—The Secretary of Commerce and the Secretary of State, after consultation with the Secretary of the Treasury, may authorize

fishing within the contiguous fishery zone of the United States, or for anadromous species or both, by citizens of any foreign nation, in accordance with this section, only if such nation has traditionally engaged in such fishing prior to the date of enactment of this Act.

(b) *Provisions.*—The allowable level of traditional foreign fishing shall be set upon the basis of the portion of any stock which cannot be harvested by United State citizens. Allowed traditional foreign fishing and fishing by United States citizens annually shall not, for any stock, exceed the optimum sustainable yield for such stock.

(c) *Reciprocity.*—Traditional foreign fishing rights shall not be recognized pursuant to this section unless any foreign nation claiming such rights demonstrates that it grants similar traditional fishing rights to United States citizens within the contiguous fishery zone of such nation, if any exist, or with respect to anadromous species which spawn in the fresh or estuarine waters of such nations.

(d) *Procedures.*—(1) In determining the allowable level of foreign fishing with respect to any stock, the Secretary shall utilize the best available scientific information, including, but not limited to, catch and effort statistics and relevant available data compiled by any foreign nation claiming traditional fishing rights.

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

L. 47—Article 13. Utilization. 1. The coastal State shall ensure the full utilization of renewable resources within the economic zone.

2. For this purpose, the coastal State shall permit nationals of other States to fish for that portion of the allowable catch of the renewable resources not fully utilized by its nationals, subject to the conservation measures adopted pursuant to article 12, and on the basis of the following priorities:

(a) States that have normally fished for a resource, subject to the conditions of paragraph 3;

(b) States in the region, particularly land-locked States and States with limited access to living resources off their coast; and

(c) all other States.

The coastal State may establish reasonable regulations and require the payment of reasonable fees for this purpose.

3. The priority under paragraph (2) above shall be reasonably related to the extent of fishing by such State. Whenever necessary to reduce such fishing in order to accommodate an increase in the harvesting capacity of a coastal State, such reduction shall be without discrimination, and the coastal State shall enter into consultations for this purpose at the request of the State or States concerned with a view to minimizing adverse economic consequences of such reduction. . . .

7. Conservation and Management

S. 1988—Sec. 3(11) As used in this Act, unless the context otherwise requires . . . (11) "optimum sustainable yield" refers to the largest net return consistent with the biological capabilities of the stock, as determined on the basis of all relevant economic and environmental factors. . . . Sec. 4(3)(c) *General.*—The United States shall manage and conserve, and have preferential rights to, fish within the contiguous fishery zone, and with respect to anadromous species of fish, pursuant to the responsibility and authority vested in it pursuant to this section, subject to traditional foreign fishing rights as defined and recognized in accordance with Section 5 of this Act.

L. 47—Articles 13. Utilization 1. The coastal State shall ensure the full utilization of renewable resources within the economic zone.

[See also Highly Migratory Species, Article 19, A. Management and B. Conservation, page 2, this document.]

8. International Fishery Agreements/International Co-operation Among States

S. 1988—Sec. 7(a) *General.*—(1) The Secretary of State, upon the request of and in cooperation with the Secretary [of Commerce], shall initiate and conduct negotiations with any foreign nation which is engaged in, or whose citizens or nationals are engaged in fishing in the contiguous fishery zone of the United

States or for anadromous species. The Secretary of State, upon the request of and in cooperation with the Secretary, shall, in addition, initiate and conduct negotiations with any foreign nation in whose contiguous fishery zone or equivalent economic zone citizens of the United States are engaged in fishing or with respect to anadromous species as to which such nation asserts management responsibility and authority and for which citizens of the United States fish. The purpose of such negotiations shall be to enter into international fishery agreements on a bilateral or multilateral basis to effectuate the purposes, policy, and provisions of this Act. . . .

(b) *Review.*—The Secretary of State shall review, in cooperation with the Secretary, each treaty, convention, and other international fishery agreements to which the United States is party to determine whether the provisions of such agreement are consistent with the purposes, policy, and provisions of this Act. If any provision or terms of any such agreement are not so consistent, the Secretary of State shall initiate negotiations to amend such agreement; Provided, That nothing in this Act shall be construed to abrogate any duty or responsibility of the United States under any lawful treaty, convention, or other internal agreement which is in effect on the date of enactment of this Act. . . .

(c) *Nonrecognition.*—It is the sense of the Congress that the United States Government shall not recognize the limits of the contiguous fishery zone of any foreign nation beyond 12 nautical miles from the baseline from which the territorial sea is measured, unless such nation recognizes the traditional fishing rights of United States citizens, if any, within any claimed extension of such zone or with respect to anadromous species, or recognizes the management of highly migratory species by the appropriate existing bilateral of multilateral fishing agreements irrespective of whether such nation is party thereto.

L. 47—Article 16. International Co-operation Among States.

1. States shall co-operate in the elaboration of global and regional standards and guidelines for the conservation, allocation, and rational management of living resources directly or within the framework of appropriate international and regional fisheries organizations.

2. Coastal States of a region shall, with respect to fishing for identical or associated species, agree upon the measures necessary to co-ordinate and ensure the conservation and equitable allocation of such species.

3. Coastal States shall give to all affected States timely notice of any conservation, utilization and allocation regulations prior to their implementation, and shall consult with such States at their request.

9. Enforcement

S. 1988—Sec. 10(a). *General.*—The provisions of this Act shall be enforced, together with regulations issued under this Act, by the Secretary [of Commerce] which is within the contiguous fishery zone of the United States, or which he has Secretaries may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, and facilities of any other Federal agency in the performance of such duties.

(b) *Powers.*—Any person duly authorized pursuant to subsection (a) of this section may—(1) board and inspect any fishing vessel or fishing-support vessel which is within the contiguous fishery zone of the United States, or which he has reason to believe is fishing anadromous species; (2) arrest any person, with or without a warrant if he has reasonable cause to believe that such person has committed an act prohibited by section 9(a) [Prohibited Acts and Penalties] of this Act; (3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and (4) seize all fish and fishing gear found onboard any fishing vessel or fishing-support vessel engaged in any act prohibited by section 9(a) of this Act.

(c) *Courts.*—The district courts of the United States shall have exclusive jurisdiction over all cases or controversies arising under this Act. . . . The aforesaid courts shall have jurisdiction over all actions brought under this Act without regard to the amount in controversy or the citizenship of the parties.

L. 47—Article 21. Enforcement. 1. The coastal State may, in the exercise of its rights under this chapter with respect to the renewable natural resources, take such measures, including inspection and arrest, in the economic zone, and, in the case of anadromous species, seaward of the economic zones of the host State and other States, as may be necessary to ensure compliance with its laws and regulations, provided that when the State of nationality of a vessel has

effective procedures for the punishment of vessels fishing in violation of such laws and regulations, such vessels shall be delivered promptly to duly authorized officials of the State of nationality of the vessel for legal proceedings, and may be prohibited by the coastal State from any fishing in the zone pending disposition of the case. The State of nationality shall within six months after such delivery notify the coastal State of the disposition of the case. . . .

10. Effective Date

S. 1988—Sec. 11(a), *Effective Date.*—The provisions of section 4 of this Act/ Fisheries Management Responsibility/ shall become effective 90 days after the date of enactment of this Act. All other provisions of this Act shall become effective on the date of enactment.

(b) *Termination Date.*—The provisions of this Act shall expire and cease to be of any legal force and effect on such date as the Law of the Sea Treaty, or other comprehensive treaties with respect to fishery jurisdiction, which the United States has signed or is party to, shall come into force or is provisionally applied.

L. 47—If these draft articles were to become part of the Law of the Sea Treaty which the US is now trying to negotiate, they would come into effect provisionally when the treaty were signed. The US announced this provisional acceptance of treaty articles on fisheries which the US proposes to make at the final preparatory session of the United Nations Seabed Committee in summer 1973.

In the present time frame (third session of the Third United Nations Law of the Sea Conference is scheduled for 17 March through 10 May 1975 in Geneva, with a final session for signing in Caracas in summer 1975; this, however, is subject to change), this would presumably be by a year from now, that is, September 1975.

BRIEF DESCRIPTION OF S. 1988/H.R. 8665, "EMERGENCY MARINE FISHERIES PROTECTION ACT OF 1974" AND UNITED NATIONS A/CONF.62/C.2/L.47, UNITED STATES OF AMERICA: DRAFT ARTICLES FOR A CHAPTER ON THE ECONOMIC ZONE AND THE CONTINENTAL SHELF

1. 200-mile Contiguous Fishery Zone 200-Mile Economic Zone

S. 1988 provides for the US to extend its contiguous fishery zone to 200 nautical miles as an emergency measure.

L. 47 states that the coastal state's economic zone shall not exceed 200 nautical miles.

2. Coastal State Jurisdiction

S. 1988 again refers to emergency interim action to protect and conserve threatened stocks by asserting management jurisdiction over fish in an extended contiguous fishery zone and certain other species.

L. 47 not only provides for coastal state jurisdiction; it also states that the coastal state will have sovereign and exclusive rights for exploring and exploiting all the natural resources of its economic zone.

3. Coastal Fisheries

S. 1988 provides for coastal state jurisdiction and preferential rights to coastal stocks with responsibilities to manage and conserve the fish within the contiguous fishery zone, subject to traditional foreign fishing rights.

L. 47 seeks full utilization. The coastal state would have preferential rights with management responsibility to see the stocks within the economic zone are fully utilized after its fishermen exercise those preferential rights.

4. Anadromous Species Fisheries

S. 1988 seeks US management responsibility and authority over anadromous species to the extents of their ranges, providing this does not extend into the territorial waters or the contiguous fishery zone of another country.

L. 47 prohibits fishing for anadromous species seaward of the coastal state's territorial sea—not economic zone—except as the coastal state authorizes.

5. Highly Migratory Species

S. 1988 leaves management of highly migratory species to bi- or multilateral agreement, providing for US management and responsibility for these species only if the necessary bi- or multilaterals do not exist.

L. 47's provisions for management, conservation, and allocation are more complex and give the coastal state greater control of and access to highly migratory species greater control of and access to highly migratory species in its economic zone under principles which are yet to be negotiated. They also provide for regional organizations to manage the highly migratory species of the region.

6. Foreign Fishing Rights

S. 1988 provides for foreign fishing only if the nation seeking to fish has traditionally fished off the US coast before the bill is enacted. It also denies foreign fishing rights to any nation which does not reciprocate for US fishermen. The Secretary is authorized to establish fees foreign fishermen will pay to help defray the expenses for management and conservation the US will incur.

L. 47 provides for full utilization and places foreign fishermen with traditional rights just after coastal fishermen as those foreign nations first entitled to a share of the coastal state's under-utilized resources. The coastal state may also charge reasonable fees for management purposes.

7. Conservation and Management

S. 1988 seeks "optimum sustainable yield" from US stocks, based on all the relevant economic and environmental information available.

L. 47 ensures full utilization of fisheries in the coastal state's zone and provides, in the highly migratory species articles, provision for conservation and management of those species.

8. International Fishery Agreements/International Co-operation Among States

S. 1988 calls for the Secretaries of State and Commerce to negotiate with any nations fishing in the US contiguous fishery zone or for US anadromous species, as well as with nations on whose anadromous species US nationals fish to achieve treaties and agreements that are consistent with the Act's purposes. It also states that the US shall not recognize the contiguous fishery zone beyond 12 miles of any nation if that nation does not recognize the US fishermen's traditional fishing rights within that zone and on anadromous species or does not recognize management of highly migratory species by international agreements.

L. 47 provides that states shall cooperate globally and regionally to manage fisheries resources and that coastal states fishing the same stock or biomass shall coordinate their conservation and management efforts. A coastal state must also give any nations fishing in its economic zone timely notice of any changes in conservation regulations.

9. Enforcement

S. 1988 gives the US authority to board and inspect any fishing vessel or arrest any person suspected of violating US regulations in the contiguous fishery zone or on anadromous species. The US may also seize any fish or fishing gear involved in violation of the Act.

L. 47 gives greater authority to the coastal state within its economic zone and for enforcement of conservation of anadromous species. If the coastal state seizes a foreign vessel in violation, the coastal state shall release that vessel if its flag nation has effective procedures for punishing violators. The coastal state may prohibit the violating vessel from fishing pending disposition of the case. And the flag nation of the violating vessel must notify the coastal state of the disposition of the case within six months.

10. Effective Date

S. 1988 calls for fisheries management responsibility to become effective 90 days after enactment of the bill; the rest of the provisions become effective on the date of enactment. The Act's provisions will expire when—or if—the US becomes party to a Law of the Sea Treaty or similar multilateral legislation.

L. 47 are only *draft* treaty articles. If the United Nations Law of the Sea Conference were to adopt them, the soonest possible date they could become effective would be nearly a year from now, that is, September 1975. If they were adopted, and if there were a treaty.

Mr. MUSTARD. As you will be able to see, the present U.S. position in S. 1988 is almost identical. Ambassador Stevenson stated himself be-

fore the Foreign Relations Committee that he had no problem with the language of S. 1988, only the timing.

Now if the LOS Conference does not reach agreement in 1975, our own U.S. experts have stated that the chances for agreement would rapidly diminish and the nations will in succession declare unilateral extensions of jurisdiction.

If this is known, why should not the United States lead the way in 1975 with an exemplatory piece of implementing legislation as S. 1988? It will take the bureaucrats and diplomats at least 1 year to set up the controls, the enforcement mechanisms, and gear up to do the job. I think we should get them started on the way with the best way for the United States and the world and that would be by supporting proposals similar to S. 1988.

The Defense Department and State Department are now paranoid at the threat of losing out in the Conference in 1975. They say to Congress, please give us just 1 more year, that is all we ask.

OK, we should give it to them, but we should start the ball rolling before our domestic fishermen start shooting, as I am sure they will. All we ask is that our elected officials exercise their constitutional rights under the foreign commerce clause of the Constitution and quickly pass S. 1988 and set the wheels in motion.

If it is really in the national interest, as defined in the Washington vacuum, to give the Defense and State 1 more year, then we can possibly pass S. 1988 and set the effective date for October 1, 1975.

After the LOS Conference is over and the die is cast—or the people of the United States will be back here next year in force, not asking for a liberalized economic zone but a territorial sea of 200 miles, just like many people all over the world will be asking their governments. I think we should show them the way toward an economic zone with S. 1988 as their guide.

For a brief moment I would like to say this is not the first time that the State Department and the Defense Department have hurt our constituents. In 1949, the State Department recommended to increase research and market programs to increase imports, even though the imports controlled 30 percent of our markets and there was a $10 million trade deficit at that time.

In 1956 the Tariff Commission ruled that protective tariffs were needed to save domestic producers, when imports controlled 56 percent of our markets, but the President, under pressure from the State Department and Defense Department, said no, because Iceland was going to go Communist if we did not. However, this was just after the invasion rape of Hungary and the Icelanders by then did not want any part of communism and our military bases at that time were becoming more secure.

The President said no anyway, and our industry had to fend for itself.

Today the Minister of Fisheries in Iceland is an avowed Communist and so is a large portion of their government. However, they are fighting for their fishermen and our fishermen are left with little or no tariff protection, although 90 percent of our New England ground fish is imported. A large majority of this is caught by foreign vessels off our own shore.

Over 70 percent of our Nation's fish are imported, leading to a current trade deficit of over $1.3 billion. That is almost 30 percent of our national trade deficit.

However, Canada is protected by a 35 percent ad valorem tariff.

Back in 1956, when the wool industry got tariff protection, when imports reached the intolerable level of 5 percent, that was just before the election. Right after the election, the tariff protection on fisheries was not put into effect.

Our domestic fishermen's constitutional rights are being violated and our gutless government, not the Members of Congress, sit and ponder on positive action. We simply ask for your help and we hope not in vain.

The CHAIRMAN. You have certainly presented worthwhile statements here with some good points.

You propose the effective date of October 1, 1975, is that right?

Mr. MUSTARD. I think if the bill is passed this year, the wheels of motion for management and enforcement and surveillance will give them a year to get geared up to do the job. If we wait until this time next year, it will still take them 1 year to gear up and do the job, and we will be another year late.

The CHAIRMAN. I press you on the 1 year. You think that is enough time? This is a kind of a conglomerate, and I think you have made a very good suggestion here about the forward effective date.

There is still a question in my mind about how much time should be allowed. Just give us your firm opinion, whatever it is.

Mr. MUSTARD. We would like to see it implemented now, but Defense and State say they need 1 more year. If they need 1 more year and it is in the national interest, we are willing to allow them another year.

The CHAIRMAN. You might say a year from the passage of the act, if it is passed during 1974.

Mr. MUSTARD. If the act is passed in 1974, the actual implementation date is in 1975, it would not really have the serious effect that they say it would.

The CHAIRMAN. We have had Mr. Orcutt from Maine Fishermen Cooperative Association; Mr. Roche, Boatowners United; Mr. Mustard, National Federation of Fishermen. They have made worthy statements.

Senator MCINTYRE. I have a couple of questions for Mr. Orcutt. I regret that I was not able to be here at the very beginning of the session. I missed his testimony. It is my understanding that Mr. Orcutt addressed himself primarily to conservation measures, and I would like to ask him how long would it take or what time frame or time period is involved in turning the coastal seas around from what I consider, or what I have been told is an exploitation that is now going on to a management and conservation program?

What is the time frame we need to get this turned around?

Mr. ORCUTT. On certain species it is my understanding they are so far depleted that it is going to take a number of years to get them to where they can sustain fishing again. Not having any research figures, I would be at a loss to answer that, sir, in a definite time.

Senator MCINTYRE. What species are in danger of extinction on the waters off New England and the northeast coast?

Mr. ORCUTT. The haddock is, of course, well-known to be practically extinct. The yellowtail flounder, mackerel, the whiting, the herring, and cod and hake are feeling the effects of it now.

Senator MCINTYRE. What measures of conservation could we institute immediately upon passage of this bill that would start the process back?

Mr. ORCUTT. I think that perhaps an overall slowdown in fishing effort on the grounds.

You realize that in Maine, that it is not the case in New Bedford, but in Maine most of the fishing vessels are dayboats. In other words, they go out before daylight in the morning and come in that night. Therefore, they are only fishing up to 25 or 30 miles offshore.

The reason that we are affected so much up there is because these schools of fish that are fished in the deeper water are broken up and they never do get them to reach into the insular waters and they come in the insular waters to spawn. If they do not spawn, they do not lay eggs.

Senator MCINTYRE. Do you want to add anything, Mr. Roche?

Mr. ROCHE. Yes, sir; I was going to say if we had this legislation, the U.S. Government would be able to impose on the other nations coming into the fish area the same regulations that they impose upon us.

As an example, I mentioned a British trawler on September 2, a no haddock, zero quota area, had 130 tons of haddock aboard. These things would be prevented.

Another thing, a lobster is a creature of the shell, and these same vessels have lobsters on them which they are not supposed to take. These regulations would be enforced on the other foreign nationals as they are on the United States.

Senator MCINTYRE. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Gentlemen, we are pleased that you could be here. I am rather impressed with your testimony. Thank you. I know you have added to our record. We now have Mr. Utz of the National Shrimp Congress.

Mr. August Felando, of the American Tunaboat Association.

Walter Yonker, of the Association of Pacific Fisheries, and Mr. Charles Carry, of the Tuna Research Foundation. You gentlemen will speak in opposition to S. 1988.

This is Senator Thurmond, a valuable member of our committee, and he will be interested in what you have to say.

All right, you are first, Mr. Utz.

STATEMENT OF WILLIAM UTZ, NATIONAL SHRIMP CONGRESS, WASHINGTON, D.C.

Mr. UTZ. Mr. Chairman, I am Bill Utz. I am representing the National Shrimp Congress, but in particular I am here today to speak in behalf of the shrimp industry as a whole and a number of individual fishery organizations of the Southern United States and shrimp organizations that could not, due to the shortness of time, get witnesses here.

I would like to submit for the record statements that they have made and resolutions that they have passed, and just very briefly enumerate which organizations they are.

The CHAIRMAN. Without objection, we will put these statements in the record.

Mr. UTZ. I have a statement from the executive director of the Louisiana Shrimp Association, George W. Snow, stating their opposition to this legislation.

I have a statement by Robert Mauermann, executive director of the Texas Shrimp Association, stating the specific reasons that their organization is in opposition to the legislation.

I have a statement by C. W. Sahlman of Tampa, Fla., who is the chairman of the American Shrimpboat Association, which is the organization representing all of our distant water shrimp fleets, and he is also the president of the Southern Fisheries Association, which is a composite body which represents fishery organizations of South Carolina, Georgia, Florida, Mississippi, and Alabama, stating the position that those organizations have taken in opposition to this legislation.

I have a resolution from the Gulf States Marine Fisheries Commission, which was passed unanimously by the members of that commission. That commission is a quasi-governmental organization with representatives of all of the gulf coast States. They are appointees of the Governor of each one of those States and representing members of the legislature and industry of those States, and that resolution was passed opposing this legislation and requesting that no unilateral extension of fisheries jurisdiction be undertaken prior to the conclusion of the Law of the Seas Conference.

[The statements follow:]

LOUISIANA SHRIMP ASSOCIATION,
New Orleans, La., April 26, 1974.

The Louisiana Shrimp Association is opposed to S. 1988 and S. 2338, bills which propose to extend the U.S. territorial fishing zone to 200 miles. It is the opinion of our members that actions necessary to maintain our fishery resources (located in areas beyond our present 12 mile boundary) at the most productive levels, be deferred until the results of the Law of the Sea Conference (June 1974) are determined.

A failure of those nations with boats now fishing the international waters off our coasts to recognize such a 200 mile fishery jurisdiction would result in serious confrontations with all of the attendant political and economic complications. Since there are so few coastal nations which now claim a 200 mile fishery boundary there would be little, if any, support for the U.S. position in the event of such confrontations. Also to be considered is the enormous cost to the U.S. taxpayer in maintaining surveillance and enforcement of a 200 mile limit on all coasts of the U.S. mainland and the waters off Hawaii.

We are particularly concerned with the effects upon our fishermen should our neighbors in the South Atlantic and the Gulf of Mexico also establish a 200 mile fishery jurisdiction as a result of the U.S. action. Such action, particularly by Mexico, would "close out" grounds traditionally fished by our trawlers for many years. We also believe that there would be chaos as a result of the overlap of areas claimed by the nations in this geographic area.

Thank you for your consideration of our position in this matter.

Sincerely yours,

GEORGE W. SNOW,
Executive Director.

41-251—74——13

TEXAS SHRIMP ASSOCIATION POSITION ON S.B. 1988 AND H.B. 8655

Mr. Chairman, members of the committee, my name is Robert G. Mauermann and I am the Executive Director of the Texas Shrimp Association and the Shrimp Association of the Americas. The Texas Shrimp Association is the oldest trade association representing the Gulf shrimp industry and speaks for a fishery with landings in 1973 of 51.4 million pounds of shrimp with a dockside value of $87.5 million.

The Texas Gulf shrimp industry is divided into two major groups; the distant water fishery and the fishery off the Texas coast. The distant water shrimp fishery fishes not only off the Texas coast but off the coasts of other countries bordering on the Gulf of Mexico in international waters. At certain times of the year 30% of the 1,900 Texas based boats fish in international waters off the coast of Mexico. In fact, the shrimp fishery off the coast of Mexico was developed by American fishermen based on the concept that this resource was available in international waters to any fisherman with the courage and capability of harvesting this valuable marine resource.

S. 1988, the "Interim Fisheries Zone Extension and Management Act of 1973." would, on an interim basis, extend the United States' contiguous fisheries zone from its present width of nine miles beyond our three-mile territorial sea to a width of one hundred and ninety-seven miles beyond the territorial sea. The bill also provides for the extension of United States jurisdiction over anadromous fish of U.S. origin to the full limit of their migratory range in the oceans, except within the territorial waters or fisheries zone of another country.

For the past three years the United States has actively participated in preparatory negotiations for the U.N. Law of the Sea Conference and have established our fisheries position in that forum. The U.S. position is based on a species management concept which in effect gives the coastal states much greater control over coastal stocks and provides for host state management jurisdiction and preferential harvest rights over anadromous species. The U.S. position further provides for the management of highly migratory species by international conventions. This position was developed over a period of several years as a result of frequent conferences between representatives of the U.S. State Department and representatives of the various segments of the fishing industry.

The unilateral extension by the United States of its fishery jurisdiction, even on an interim basis, is contrary to established international law. Not only is it the view of the United States, but also other major maritime powers, that under existing international law no state has the right unilaterally to extend its fishery jurisdiction more than 12 miles from its coast. Although certain coastal states have unilaterally extended their fishery jurisdiction beyond the recognized 12 miles we do not recognize such claims nor do most of the world's other maritime powers. It would appear, therefore, that such unilateral action by the United States would greatly reduce the opportunity of establishing a new regime for international fisheries through international agreement. We are further of the opinion that the unilateral extension by the United States of its fishery jurisdiction as provided for in S.B. 1988 would be enforceable only if acceptable to other maritime powers, including those now fishing between 12 and 200 miles off the coast of the United States. These nations whose vessels now fish in this area are not likely to recognize this claim to an exclusive 200 miles fishery zone anymore than the United States recognizes similar claims made unilaterally by other coastal states. It is highly unlikely that these foreign flag vessels would quietly haul in their fishing gear and return to their own waters simply because we object to their competing with American fishermen in waters recognized by the world community as international waters.

In summary, Mr. Chairman and members of the committee, we are in complete sympathy with the objectives of S.B. 1988. however, we do not feel that this legislation at this time can possible acomplish these objectives for the reasons I have outlined. It is our further belief that enactment of this legislation would immediately precipitate similar action by the Republic of Mexico thereby denying the Gulf shrimp industry a major portion of their traditional shrimping waters.

STATEMENT BY C. W. SAHLMAN, SAHLMAN SEAFOODS, 1352 SAHLMAN AVENUE, TAMPA, FLORIDA 33605

Mr. Chairman and members of the Senate Commerce Committee, my name is C. W. Sahlman. I am speaking here today on behalf of three separate entities, Sahlman Seafoods, the American Shrimpboat Association and the Southeastern Fisheries Association. Sahlman Seafoods, Inc., is my own business out of Tampa, Florida. We personally operate a fleet of shrimp trawlers which fish in international waters off the South American coast, primarily Guyana, Surinam and Brazil. The American Shrimpboat Association is a trade association which has as its membership those American fishing operators who are presently engaged in shrimp fishing off South America and in international waters elsewhere. Thirdly, I speak as President of the Southeastern Fisheries Association. This Association represents fishermen of all species from the States of Alabama, Florida, Georgia, North Carolina and South Carolina. The position I am taking today and the statements I make are consistent with the thinking of my Company, the membership of the American Shrimpboat Association, and the membership of the Southeastern Fisheries Association.

Your bill, S. 1988, ostensibly would take unilateral interim action pending the Law of the Sea conference to establish a contiguous fishing zone beyond our national jurisdiction. That contiguous zone would provide an additional 197 miles, or a total 200 mile fishing boundary around the shoreline of the United States.

Gentlemen, I and all whom I represent here today oppose this legislation. It is argued by many in the New England area of the U.S. and in some quarters of the Northwest Pacific, that such legislation would be a godsend. It would be the cure-all for their fishing industry ills. I totally disagree with that belief and the comments that they have expressed to support that false hope. It would not be a cure-all for their particular problems. It would, however, be a devastating blow to a large part of the American fishing industry, in particular America's highest value producer, the shrimp industry.

We are at present engaged in fishing off South America. There have in the past been serious conflicts between some South American countries and ourselves concerning our right to fish in what we consider international waters. We are fishing in those waters for shrimp that in fact are not being caught by the coastal nation closest to these shrimp grounds. Those nations neither have the capacity nor the inclination to advance to the capacity to catch the existing shrimp crops that are produced there annually. At the moment we have an ongoing treaty with Brazil. This treaty was worked out approximately two years ago after long and difficult negotiations. It is a very workable treaty; it has worked for the past two years on a purely voluntary basis inasmuch as the enabling legislation was not completed by the Congress and signed by the President until the very end of 1973. That Treaty's provisions have now been extended through June 30, 1974, and in the very near future we hope to engage in negotiations with the Brazilians to extend this Treaty on a long-range basis.

The preamble to that Treaty spells out that Brazil recognizes in its constitution a territorial sea extending 200 miles off its coastline. Anything and everything within 200 miles off Brazil's coastline is its property. The U.S. stated in those negotiations, and has spelled out in the Treaty, that this country does not recognize 200 miles. Both countries, however, agreed there was a need for a conservation regime in order that the shrimp in that area of the high seas be conserved and not over-exploited. We agreed to establishing a conservation zone and limiting the fishing season and the amount of catch effort, by number of boats, that would be exercised in the area. That Treaty is an interim agreement pending the outcome of the Law of the Sea.

Should the U.S. Senate determine to enact legislation that would provide for a 200 mile fishing zone off the coast of the U.S., it will be virtually impossible for us to negotiate an extension of that agreement within the realm of reason for the U.S. fishermen, or to negotiate any multi-national agreements at the Law of the Sea conference that would protect the high seas shrimp fishermen. Why do I say this? Because the U.S. industry and government negotiators going to Brazil

or the Law of the Sea conference will be usurped by the Senate. Regardless of how you phrase your legislation, you will have convinced those other countries that the U.S. will approve of any other country claiming 200 miles.

For a moment gentlemen let's examine the people and the industry I represent. Who are they? And how would they be affected by this legislation? The American Shrimpboat Association is comprised of the distant water shrimp fleet. According to the National Marine Fisheries Service statistics for 1973, the total dollar value of the U.S. distant water shrimp catches at ex-vessel prices was $40,703,000 or, in round figures, $41 million. The total shrimp value in the U.S. in 1973 was $241,307,000. As you see, our distant water shrimp catch approximates one-sixth of the total U.S. shrimp landings. Of those total U.S. shrimp landings, over one half ($154,145,000) was caught in the Gulf. Or, viewed in another way, we catch in distant waters shrimp valued at over one-fourth (26%) the dollar value of all shrimp that is caught in the entire Gulf.

Additionally I am here today to represent the Southeastern Fisheries Association which encompasses those fishermen fishing within the Gulf. Where are we if S. 1988 becomes law in the U.S.? Most assuredly, Mexico's first reaction would be to claim a 200 mile fishing zone, just like northern neighbor. That would, for all practical purposes, completely close the Gulf of Mexico. Brazil already claims 200 miles thus, in the absence of any agreement, we are totally removed from our fishing grounds. A $41 million a year industry at the vessel level is wiped out.

In that event, we have only two alternatives. One alternative is to face those nations such as Brazil, and Mexico, across the bargaining table and to work out some agreement under which we would be allowed to come in and fish for—and might I say with very heavy emphasis—*their shrimp*—they would in effect, be sitting as sellers of a commodity, and we in effect would be buyers of an opportunity to collect their commodity. The chances of our negotiating any agreement that would not totally deplete the profit margin that presently justifies our being in the distant waters, is very unlikely. The probabiliies are that we will be looking toward the second alternative.

The second alternative would be to return to the Gulf. Gentlemen, it does not take much imagination to recognize that should the boats and crews that capture $41 million of shrimp, approximately 26% of the value of the entire shrimp catch within the Gulf, if those crews and boats return to the Gulf in competition with the fishermen presently there, we would soon have a Gulf that would be drastically overfished, as much or more so than those in New England claim exists in their waters today.

Fishing areas do not develop overnight. They are discovered and cultivated over long periods of time. Likewise they cannot be changed overnight, without having drastic and disastrous impact upon the economies of the areas which depend upon that fishing industry. 200 mile legislation by the U.S. would have a direct and disastrous impact upon the economies of the States of Florida and Texas, and indirect impacts throughout all the Gulf States.

Gentlemen, I did not come here today just to present a negative attitude about your legislation I applaud the interest exhibited by this Committee and its members. I am pleased there is a group of Congressmen and Senators who are interested in improving the fishing industry. I was very pleased to see the so-called Eastland Resolution so well received by the Senate and the House of Representatives. That Resolution, as you know; calls for immediate attention and the strongest possible support to upgrade and improve the fishing industry of the U.S. As a follow-up to that legislation, it is my understanding that the Pacific, Atlantic, and Gulf States Marine Fisheries Commissions are presently submitting budgets to Senator Eastland. Those budgets will be utilized as the basis for a total appropriation of $400,000 to conduct hearings throughout the entire U.S. coastal regions. These hearings will provide the fishermen themselves, the people directly involved in the industry, an opportunity to express exactly what they feel is necessary to improve and upgrade their industry, and to protect, conserve and fully utilize all the living resources of the sea. I applaud that effort. I think it is a step in the right direction.

I have fully supported many, many efforts throughout the past years to support the total fishing industry. I have worked long and hard with my fellow members of the fishing industry in an effort to find those things which we all agree are universal problems facing the industry; problems which we could work in unison to support.

One particular issue was our representation and posture at the Law of the Sea conference. This conference will officially begin in June of this year, in Caracas, Venezuela. The industry representation there and the position advanced there for the industry did not come easy. There have been many years and many meetings, a lot of time and great efforts on the part of the fishery associations and individual fishermen getting us to this point. Some years ago, representatives of every segment of the entire fishing industry met. After difficult and arguous sessions, and unbelievable compromises by many segments of the industry, the approach and posture presently exhibited was agreed to and advanced as the official U.S. position on fisheries, commonly referred to as the "Species Approach." The Species Approach was hammered out and was agreed to by each and every individual segment of the American fishing industry. It was agreed they would support that position and would refrain from advancing or advocating unilateral action pending the outcome of the Law of the Sea conference. I, and those I represent, agreed to support the Species Approach. I might add, that we have steadfastly done so, consistent with our agreement with the remiander of the industry.

I would like to point out, however, that the Species Approach in its present form is not the very best approach for the distant water shrimp industry. It does, however, give us protection. It gives us adequate protection for what could be a limited period of time, provided it would be passed in its present form, and if it were enforced in the strictest sense. I speak here in reference to the full utilization concept that is part of the Species Approach. That concept provides in essence that the coastal State would have management responsibility over the coastal species and would have to make any species of the living resources off the coast available to international fishing wherever the coastal State did not fully utilize the species. By virtue of that language, we would be permitted to continue fishing in those areas where we are presently fishing, provided, however, that the coastal State did not upgrade and expand its fishing capacity for shrimp. Wherever the coastal State did begin to expand its catch capability, we would have to diminish our catch accordingly and eventually could be completely removed from those fishing grounds where we presently operate. This, as you might recognize, was an industry compromise which gave full protection to the New England and Pacific coast fisheries under a Law of the Sea agreement containing such provisions, but provided us with a slow removal from our operating grounds.

We are not insensitive to the present situation which the Pacific Northwest and New England faces. However, we do feel any legislation should be reasoned and it should be helpful in every respect, or at least in the vast majority of the industrial interests. The 200 mile legislation does not provide this type of protection for either the New England fishermen or the Pacific Northwest fisherman. In my judgment, it is both unenforceable as to attitude and capability. Yet it jeopardizes a major segment of the American fishing industry, the distant water shrimp industry.

This Congress has just recently passed a similar well-intentioned piece of legislation that, in my judgment, will provide no assistance to those people for whom it was directed. I speak specifically of the legislation to make the northern lobster a creature of the shelf. That legislation was directed to the New England lobster industry. It sought to assist the lobster industry, which according to National Marine Fisheries Service statistics produced in 1973 approximately $42 million for its fishermen. The lobster was declared a creature of the shelf by unilateral legislative action on the part of the U.S., although the 1958 Continental Shelf Convention has specifically omitted the lobster. Furthermore, that Convention only by a tie-vote refrained from naming the shrimp a creature of the shelf.

To date, I dare say not one lobster has been saved by that legislative effort for the New England lobstermen. I would venture to say that very little, if anything, will be done to enforce that legislative Act. But what has it done to other segments of the fishing industry?

In the Southeastern U.S., is based a spiney lobster industry. Again, according to National Marine Fisheries Service statistics, in 1973, that industry brought into the U.S. approximately $12 million, almost one third of the new England fishing lobster industry. The spiney lobster industry, while based primarily in Florida, takes almost half, a critical portion, of its catch in distant waters beyond the 12 mile territorial limit, off Caribbean nations. Caribbean nations

which are not at all pleased by this competitive fishing. Caribbean nations which fortunately are either unaware or have not to date decided to follow the U.S. unilateral act and likewise declare spiney lobster a creature of their continental shelf. They could so easily do it and drive into bankruptcy the vast majortiy of those fishermen presently involved in the Southeastern U.S. spiney lobster industry. Further, if the U.S., by legislative fiat can declare the lobster a creature of the continental shelf, although contrary to discussions and agreements of that Convention, who is to say to Mexico or Brazil that they cannot declare the shrimp a creature of the shelf by unilateral legislative enactment, especially in view of the extremely close vote that took place at that Convention?

Gentlemen, as you can see, in a well-intentioned effort to protect a very small segment of the New England fishing industry, an effort that probably will come to nought; last year this Congress endangered $11,500,000 a year spiney lobster industry and a $41 million a year distant water shrimp industry. Somehow, to me, the risk of such inequities do not seem to be justified.

As I stated, I have worked hard to aid and improve the shrimp industry and the American fishing industry as a whole. I want to help now. We can help if we look for approaches that pull together and strengthen the industry, and not divide it. Let's pull together and demand enforcement of existing laws and international agreements. We have in existence today treaties and foreign nations designed to protect the New England fisheries and the Pacific fisheries. If these treaties are ineffective then let's unite together, the fishing industry and the Congress, and seek to improve those agreements, seek to beef them up, seek to put realistic enforcement provisions with them. Then let's demand enforcement of these agreements. Let's show to the world, by the enforcement of those agreements already in existence, that the U.S. is sincerely interested in protecting the American fishing industry.

In conclusion gentlemen, the actual results of this well-intentioned bill would be disastrous in three respects:

(1) It would not in actual application answer the needs of the New England and Northwest Pacific fishing industry;

(2) It would definitely bring economic disaster to the distant water shrimp and Gulf coast fisheries; and

(3) It would totally wipe out all possibility of achieving an international accord at the Law of the Sea conference.

I say again, I applaud your interest and am pleased to have your support for the fishing industry. I can only hope the information I have provided, the views I have stated and the conclusions I have expressed on behalf of myself, the distant water shrimp industry, the Southeastern Fisheries Association and all of its Gulf State members, have convinced you to abandon this specific legislative effort. Abandon this legislation. But, please do not lose your interest for the American fisherman and his industry. He needs your support. The whole industry needs your support for enforcement of existing laws and passage of legislation to upgrade the industry—provide us with goals we can pursue together as a united industry, not legislation that divides and damages us, both as individuals and as an industry.

RESOLUTION

Whereas the Gulf of Mexico supports some of the most important and valuable fisheries of the United States, AND,

Whereas, any unilateral fisheries extension legislation by the Congress of the United States would have a detrimental effect on the distant water shrimp and spiny lobster fisheries, AND,

Whereas, the United States State Department has been working for the past seven years to bring about a Law of the Sea Conference in order to address the problems affecting worldwide fisheries resources management: Now, therefore, be it

Resolved, That the Gulf States Marine Fisheries Commission request the Congress of the United States to withhold any unilateral fisheries extension legislation prior to the conclusion of the Law of the Sea Conference that convenes in June 1974.

Passed unanimously this 20th day of March, 1974, in New Orleans, La.

A copy of this resolution is to be distributed to all the members of Congress in the states comprising the Gulf States Marine Fisheries Commission

This is to certify that the foregoing is a true copy of an original Resolution adopted by the Gulf States Marine Fisheries Commission, March 20, 1974, at a regular Commission meeting held at the Monteleone Hotel, New Orleans, Louisiana.

JOSEPH V. COLSON, *Executive Director,*
Gulf States Marine Fisheries Commission.

Mr. UTZ. Then I am here also representing the National Shrimp Congress as its executive director.

National Shrimp Congress is an assembly of all those fishery organizations representing industry throughout the gulf and southern area of the United States.

Mr. Chairman, we have some very specific concerns about this legislation as to what it would do to us immediately.

First and foremost, that we recognize it would have a disastrous effect upon the industry, both as far as the distant water fleets are concerned and as far as our coastal fleets are concerned.

While first impressions may leave one to believe this legislation would be protective of our coastal and domestic shrimp industry, it would actually have a converse effect.

First, the American-Brazilian shrimp agreement, which is in effect at this moment, expires at the end of this year, is one that has worked very successfully for the distant water American shrimp fleets over the last several years. In fact, for a long period of time it worked on a voluntary basis.

This agreement came about as a result of a near confrontation between our fleets down there and the Brazilian Government. At the moment the State Department is very gingerly attempting to see if we can possibly extend this agreement. The basis for that agreement primarily was that Brazil claimed a 200-mile territorial sea, the United States refused to recognize any jurisdiction beyond 12 miles, claiming that anything beyond that was international waters and our fishermen were entitled to fish there.

The two countries agreed that a harmonious continuing relationship was beneficial to both and they agreed that it was to their best interests to have a conservation regime established, and they in effect did establish one under that agreement.

Our feeling is, especially in view of this treaty immediately terminating, that should legislation be passed through any House of Congress, not necessarily coming into law, but should it be passed by any House of Congress, indicating that some segment of the Congress is interested in extending our boundaries 200 miles and wants to recognize a fishery zone of 200 miles, we would be in a very difficult position to argue to the Brazilians that we do not recognize anything beyond 12 miles, and we would lose our basis for argument under that agreement.

Second, the Mexicans have on several occasions indicated a strong desire to extend their jurisdictional limits to 200 miles in some fashion. In fact, the Mexican representative to the Law of the Seas in Caracas this summer—and incidentally, gentlemen, each of the four of us at this table were delegates to the Law of the Sea Conference and all of us were in Caracas this summer—the Mexican delegation, chief of the Mexican delegation indicated that in his estimate there were approximately 1,800 American shrimp vessels operating in what we interpret

as international waters off the coast of Mexico and it was their desire to have all of them out of there.

So it is pretty definite, in our judgment, that if this Senate were to enact legislation claiming a 200-mile zone, that the Mexicans would immediately follow suit.

Many foreign delegates interpret the action of the Senate as tantamount to this Government's views on treaties, since the Senate is the one that ratifies it.

What would the impact of these two actions as far as Brazil and Mexico mean to the shrimp industry is several things. It forces the distant water fleet into determining whether they are going to attempt to buy licenses, if that is at all possible, and those licenses will probably be very exorbitant or return into the Gulf area and begin fishing those fishing grounds.

Now this distant water fleet, according to the statistics of the National Marine Fisheries Service, catch a production level that is equivalent to 25 to 26 percent of the entire shrimp catch in the Gulf of Mexico.

Right now those fishing grounds are actively fished and, in many people's judgment, fully fished. If we were to bring a U.S. fleet back into that area with that type of catch capacity, these are the most modern sophisticated fleets we have, the end result is, we are going to drive an awful lot of small shrimp operators out of business and bankrupt, and, therefore, the first impression protection that the domestic shrimp fleet would be receiving from a 200-mile limit actually is a double-edged sword, it is going to cut them to death.

The particular interest of the domestic shrimp industry right now is to see that the distant water fleets remain where they are, they have been very successful in those areas, and hopefully will continue so. The domestic shrimp industry right now, Senator, as you well know, we had a meeting of the National Shrimp Congress Board of Directors in Washington last week, also we had many other industry representatives here last week, and discussed the issues of crisis proportion that are facing the industry. We found that right now the entire gulf shrimp industry is on the verge of bankruptcy.

We are in desperate need of operating capital. We are overcome with imports. We have fuel prices mounting, supply prices mounting, and we have a depressed shrimp market.

The last thing the domestic shrimp industry could stand at this particular time is such a distant water fleet coming back into the gulf.

As far as this particular legislation is concerned, we are very much opposed to it. We agree with many of the concerns of the New England and Northwestern Pacific fishermen. We certainly want to see they are protected and we certainly want to help them in any way we can.

The fishing industry has long had a very weak voice primarily because various segments of the industry were always fighting each other. Hopefully we can find some common ground to work together.

We feel there is other legislation pending in the Congress that could be beneficial to them. It is not perfect in its present state, but it could be amended. We feel that there has to be a way of assisting those people with a more precise and specific approach to their actual prob-

lem, and one that would not be detrimental to the American's No. 1 fishing industry, the shrimp industry.

We are just hopeful we can work together to find another solution to this problem because this one, S. 1988, in our judgment would not be an answer to the problem.

[Statement follows:]

STATEMENT OF WILLIAM NELSON UTZ, EXECUTIVE DIRECTOR, NATIONAL SHRIMP CONGRESS, WASHINGTON, D.C.

Mr. Chairman and committee members, I am William Nelson Utz, appearing here today as executive director of the National Shrimp Congress. The National Shrimp Congress, Inc., is a Delaware corporation with its principal headquarters in Washington, D.C. This nonprofit organization was formed in 1956. It is an organization whose membership is made up primarily of shrimp producers throughout the Gulf Coast States.

Gentlemen, in my judgment, S. 1988, if it is reported from this committee and passed by the U.S. Senate at this time, would be the most damaging blow the U.S. Senate could render the U.S. shrimp industry and the American fishing industry as a whole.

To lend credit to that statement I would like to set forth some facts and figures on the U.S. fishing industry. According to National Marine Fisheries Service statistics for 1973:

Ex-vessel values:	
Total U.S. catch	$907,400,000
Total U.S. shrimp	241,307,000
Total U.S. tuna	131,573,000
Total U.S. salmon	125,113,000
Total shrimp, tuna, and salmon	497,993,000

In comparison to the total value of all U.S. catches, the U.S. shrimp catch represents 26.6 percent and the shrimp, tuna and salmon catches account for roughly 55 percent of the dollar value of the entire U.S. fishing catch. Over 55 percent of the dollar value of the U.S. fishery is encompassed by shrimp, tuna and salmon. Gentlemen, you will see and hear today that the major segments of those industries are absolutely opposed to this bill. They are opposed to S. 1988 because a 200-mile contiguous fishing zone would have disastrous and irreversible impact on all three of these industries. I will not attempt to go into detail as to its impact on the tuna or salmon industries—their representatives are here and can best speak for themselves. I will, however, try to point out some specifics wherein S. 1988 would damage the U.S. shrimp industry.

S. 1988—would negate the Brazilian-American shrimp treaty.

S. 1988—would foreclose present possibilities of workable agreements with Mexico.

S. 1988—would negate all U.S. efforts toward a fisheries agreement in the Law of the Sea Conference and limit U.S. participation to supporting a 200-mile fisheries provision or sitting by while some other form of agreement is reached.

S. 1988—would have an indirect impact on U.S. coastal shrimp fishermen by forcing upon them excessive competition from those high seas fishermen forced to return to the U.S. Gulf.

First, let's review the American-Brazilian situation. We have in effect today a highly workable treaty with Brazil. This treaty was worked out approximately two years ago. For these past two years it has worked on a purely voluntary basis, inasmuch as the enabling legislation was not signed into law until the final days of 1973. The treaty has been extended, however, by exchange of letters, until June 30, 1974. On May 9, representatives from the National Marine Fisheries Service, the Department of State, the National Oceanic & Atmospheric Administration, and all the individual fishermen involved will meet in Tampa, Florida. On that date we plan to review the treaty to date and prepare for negotiations with the Brazilians. Those negotiations of course will be directed toward extending the treaty on a long-term basis.

The basis upon which the present treaty was founded and the leverage which provided the American distant water shrimp fisherman with an opportunity to negotiate were two-fold. First, the U.S. and Brazil enjoy a friendly relationship and both parties wanted to continue that relationship. Second, the U.S. absolutely refused to recognize 200 mile territorial limits. Brazil, however, as you know, claims a 200 mile territorial sea. With these facts upon the table, and the parties agreeing it was in their mutual interest to have a conservation regime which would avoid conflict, the negotiators went to work and put together the existing agreement. The point I am attempting to make is this present agreement came about and continues only because the United States does not recognize a 200 mile territorial sea or contiguous fishing zone.

If this Committee should report S. 1988 or legislation similar to it, and it be passed into law, I can think of no logical basis upon which we could return to the bargaining table with the Brazilians. You will have removed from the hands of the American shrimp industry the only real lever we have. We will, in effect, be going to the table to talk to the Brazilians not as negotiators but as purchasers. They will be saying to us "We own the shrimp." With S. 1988 as law, how could the U.S. claim otherwise?

S. 1988 would foreclose present possibilities of workable agreements with Mexico. At present we have no agreement with Mexico. At present Mexico does not claim a 200 mile contiguous fishing zone. Many of her Latin neighbors do. They have been exerting great pressures to have Mexico declare a 200 mile contiguous zone.

Mexico has for some time now shown considerable interest in our arrangement with Brazil. The Mexicans have intimated they would be willing to discuss a similar agreement with the United States. The Gulf shrimp industry, particularly Texas and Florida, are dependent upon those fisheries that would be caught up in a 200 mile confrontation with Mexico.

S. 1988, in my judgment, would force Mexico to immediately claim a 200 mile fishery zone also.

S. 1988 would negate all U.S. efforts towards a fisheries agreement in the Law of the Sea conference and limit U.S. participation to supporting a 200 mile fisheries provision or sitting by while some other form of agreement is reached.

Since early in 1972 I have attended all the conferences held by the United Nations for preparations for the United Nations conference on the Law of the Sea. I have also participated as an advisor to the Department of State Law of the Sea Advisory Committee, and have been privileged to be designated as one of the four official U.S. representatives in the U.S. Delegation to the Law of the Sea conference. I will continue to perform in this capacity in Caracas this summer.

I can tell you gentlemen, candidly and directly, that I will have nothing to negotiate with, not a leg to stand on in Caracas, or at any other multi-national conference, if the U.S. Senate passes 200 mile legislation. In my judgment the Senate, that body of the U.S. Congress which ratifies multi-national agreements, will have spoken to all the delegates of that conference, and will have said: "We want a 200 mile contiguous zone as the fishery provision within the Law of the Sea conference." There will be nothing left for the American fishing industry to negotiate. All our efforts will have been for nought. Any opportunity for us to obtain a multi-national conference with provisions that would permit the entire U.S. fishing industry to continue, without serious damage to any segment of that industry, will have been wiped out.

Further, S. 1988 has an equally drastic impact on our efforts to negotiate any multi-national fishery agreements because of the bad faith posture it creates for the U.S. negotiators. S. 1988 rejects—unilaterally—multi-national agreements to which we are parties.

In 1958 this country was a party to four conventions that came out of a major conference held in Geneva:

—Convention on Fishing and Conservation of the Living Resources of the High Seas.

—Convention on the Territorial Sea and the Contiguous Zone.

—Convention on the Continental Shelf.

—Convention on the High Seas.

All four of those conventions were ratified by the United States. Therefore, we view them as law, applicable to us as a country, and to each and every citizen of this country. Those conventions are recognized in varying numbers by other

nations. The Fisheries Convention has thirty three member nations. The Territorial Sea Convention is accepted by forty two nations. The Continental Shelf Convention by fifty one nations, and the High Seas Convention by fifty two nations. Each and every one of these conventions are recognized to varying degrees, ranging from international legislation to general acceptance as international law, by countries throughout the world. The United States, as I stated, has recognized those conventions, yet S. 1988 would deny recognition—in fact, it would go directly contrary to certain provisions of those very treaties which the U.S. Senate has ratified.

You cannot blow "hot and cold" at the same time. We either honor our agreements or we don't. We cannot pick and choose which segments of a multi-national agreement that we will honor—which we will breach—and which we will unilaterally amend.

S. 1988, in my judgment, is in conflict with the Geneva Convention on Territorial Sea and Contiguous Zone dated April 20, 1958. In Part II, paragraph 3 of that Convention, it clearly spells out and limits the right of a coastal nation to establish a contiguous zone to its territorial sea. That provision states:

"The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured." Not only is this bill in conflict with a multi-national convention which we have ratified, it is in conflict with generally accepted international law and, by a mere tally of numbers, out of step with the nations of the world. According to the Department of State statistics, ninety two (92) nations claim only 12 miles or less as their fishing limits.

Contrarily, there are only ten nations which claim a 200 mile fishing zone. Those nations are: Argentina, Brazil, Chile, Ecuador, El Salvador, Nicaragua, Panama, Peru, Sierra Leone, and Uruguay.

While those countries that are parties to the Convention on Fishing and Conservation of the Living Resources of the High Seas include few if any of the offenders of the Northwest Pacific and New England fishing grounds, at least that Convention and its provisions is recognized by over three times as many nations as those who would concur with the unilateral action this bill proposes.

I am suggesting that a more positive approach is to move for strong action under those multi-national agreements to which we are presently a party. Such action would have greater international acceptance, but, most importantly, it would have the most immediate beneficial impact on the fishermen you seek to help.

Such action would accomplish a great deal for the fishing industry. The industry could unite and support such efforts.

The impact on world opinion would be beneficial—we would be showing a united industry in concert with Congress, working to enforce and make meaningful existing laws and treaties affecting our fisheries.

It would be within the framework of our commitments to other nations.

It would strengthen our position at the Law of the Sea conference. We could go there as a united front with Congressional support for our industry, with a recent exhibition of determination on the part of our government to fully enforce existing treaties and any others we would enter into.

S. 1988 quite dramatically would do the contrary—in each and every instance I have enumerated.

It has divided the U.S. fishing industry.

It has exhibited to the world a divisive-squabbling industry.

It would be repugnant to our existing agreements.

It would wipe out any posture whatever at the Law of the Sea Conference—except as a rubber stamp to those few countries making similar claims.

All of that for what accomplishments within the U.S. fishing industry and within the "magic" 200 mile boundary?

S. 1988 would damage the U.S. coastal shrimp fishermen by forcing upon them excessive competition from those high seas fishermen forced to return to the U.S. Gulf.

If this country claims a 200 mile fishing zone, our high seas shrimp fishermen have two options open to them. They can either buy licenses to fish their present fishing grounds, or they can return to the U.S. Gulf. The dismal results other segments of the U.S. fishing industry have experienced under any foreign licens-

ing system leads us to believe there is high probability the option these fishermen must select will be a return to the U.S. Gulf.

What then? Roughly four hundred to six hundred shrimp vessels with the recorded capability of taking shrimp catches in excess of one-quarter of the entire U.S. Gulf Coast catch will return and start fishing. Those four hundred to six hundred vessels will be competing with the thousands of smaller vessels within the Gulf (Louisiana alone reports in excess of fourteen thousand commercial shrimp licenses were issued last year). Thousands of those vessels—while quite efficient and more than competitive with those foreign fleets presently appearing in the Gulf—would be marginal at best when confronted with competition of such magnitude as these distant water fleets would present. There is high probability thousands of small shrimpers would be adversely affected and many bankrupted or forced out of business virtually overnight.

America's number one fishery would encounter disastrous economic set-backs throughout the entire Gulf States area.

All of this for what gain?

Will S. 1988 be the panacea for all the ills of the New England and Pacific fisheries? I hardly think so. It would not be so if it were fully enforced—it will be completely worthless if not enforced. This government to date has no outstanding record for enforcing the laws and treaties established to protect the fisheries.

Too many people are under the delusion that S. 1988 will ring the United States coast line with a 200 mile perimeter and no foreign fishing vessel will be permitted within the protective circle. That's the way this legislation has been sold to many—"This bill will keep all foreign fishing vessels out of our fishing areas."

I strongly believe in the view that no law is of value unless it is enforced. Is there any likelihood of rigid enforcement on the level and magnitude that many envision? I think not.

This is especially true when viewed in terms of enforcement costs. Your bill restricts fiscal year appropriations for carrying out all provisions pursuant to this legislation to only $1,000,000. From the appraisal I have heard, even a random and wide-range surveillance program would exceed $25,000,000 annually.

I have stated here the damage we believe this legislation would have upon the American shrimp industry, the damage it would do to present multi-national negotiations in behalf of the entire U.S. fishing industry. I hope these comments will convince you to look at all "four corners" of the American fishing industry and see that nothing is gained by taking action which aims at helping one segment but which in actuality damages another segment of our industry.

The goal we hope you will seek is to enforce our existing laws, treaties and agreements—enforce them rigidly and objectively—and thereby strengthen our industry. Do not pacify and divide us by false security and damaging legislation.

If you have constant violators of a 55 miles per hour speed zone the answer to curbing violations is not another speed law—the answer is enforcement officials prominantly placed, who carry out their duties.

In conclusion, we are opposed to S. 1988 as it will divide the U.S. fishing industry and bring serious economic damage upon the U.S. shrimp industry. But we hope this Committee will take the initiative to bring about rigid and effective enforcement of existing agreements and will initiate and/or support legislation designed to analyze and upgrade the American fishing industry.

The CHAIRMAN. You have made a fine statement.

Mr. Felando, you may proceed.

STATEMENT OF AUGUST FELANDO, AMERICAN TUNABOAT ASSOCIATION, SAN DIEGO, CALIF.

Mr. FELANDO. I am August Felando, general manager of the American Tunaboat Association, which is a cooperative organized under the laws of the State of Louisiana. It is exclusively composed of tuna vessel owners, U.S.-flag tuna vessel owners.

I have also been a fisherman and vessel owner and operator. The association has been in existence since 1923.

We oppose this legislation. Senator, we have been the victim of unilateral action and we are very familiar with the problems of 200 miles.

The problem of what we think S. 1988 represents, it represents unilateral action by the United States contrary to what we believe to be existing international law, and it has, we think, very dangerous implications, great dangerous personal implications to us.

Senator, since 1961 I have been involved in 205 seizures of U.S. tuna vessels on the high seas of Latin America. This does not include the number of harassments we have been involved in.

I think that S. 1988, if adopted, would increase our problems, our risk to our people and our vessels, particularly off Mexico.

We have vessels in addition in the Atlantic and we believe that this types of action would just spur the type of things that have been going on off Latin America for a long time.

I would like to give some specific reasons why we are opposed to 1988, and cut it down as much as possible.

One is the fact that 91 percent of all of the tuna landed by U.S. fishermen is taken off foreign shores, and so, in effect, S. 1988 would cut off access to fishing grounds to us.

In the Atlantic about 100 percent of all of the fish is taken within 200 miles of the coastline or islands of countries.

In the Pacific, it is about 75 percent.

Therefore, future access to fish would depend on the uncertainties of friendship and grace of coastal states.

Contrary to the statements that were made here, we have not been quietly purchasing licenses.

What we have found out in the Pacific is that only by international cooperation can we sustain the conservation effort. S. 1988 would gut, in fact would represent a stab in the back with the existing conservation regimes that we have in effect in the Pacific and the Atlantic.

We know this and at a later time I would like to submit a document which would substantiate our statements.

The fact is that as soon as Ecuador went up with a 200-mile territorial sea, it denounced the treaty, the conservation regime.

The fact is that Peru has always refused to be a part of this conservation regime, on the ground any participation in the international effort would be a derogation of their claim.

So we look at it in two ways. Short term, we are going to be denied access to fishing grounds. Long term, you are going to destroy the existing conservation regimes presently involved.

Since 1966 we have been regulated pursuant to an international regime in the Pacific, and we also have had regulations in effect at least since 1972 covering the Atlantic.

S. 1988 would in effect provide the temptation for other countries to refuse to cooperate in these types of programs.

I do not want to get into all of the details, but the fact is, tuna are highly migratory, they cannot be controlled by any one state. To give you an example, it is not unusual for our vessels, to use an analogy, to travel from Idaho to Miami to make a move with respect to the fishing grounds. The regulatory area in the Pacific is an area over 5 million square miles under a 200-mile application. A little better than 2 million square miles would be withdrawn.

The way I look at this legislation is this: It is divisive, it is discriminatory, and it is defective.

Here you have the shrimp, tuna, and salmon industries, which represent a little better than 50 percent of the landed value of U.S. fishing industry, and I think when you talk about the process value of the canned fish, it may be close to 90 percent.

We have geographical divisions, New England against California, the Northwest against the Gulf. It is unfortunate, the divisive action. I think it has been reflected in the negotiations that have been going on in Caracas. I have attended all of the sessions of the Seabed Committee with the exception of the one in March 1971.

I think you have to be there to listen to the other countries quote Senators and Congressmen of the United States about the 200-mile bill.

I have been involved in a lot of the negotiations, labor negotiations, also international negotiations. I just see the impact of what this legislation has done down on Caracas.

The U.S. delegation was obsessed with the problems of S. 1988, what it represents. I think this type of legislation has gutted the ability of the U.S. delegation to really look ahead in the negotiations. We are going ahead now with the fact that on March 17 we are going to have another session, about 4 months away, and here we are talking about enacting legislation that does what, representatives of the United States saying, we are looking at our economic interest, we are looking at our fishing industry, and we think on our own we are going to go out and declare a 200-mile zone.

This is exactly what other countries have always said down in Latin America. We are going to decide how far we can claim sovereignty in the oceans and they are just sitting back and waiting for the U.S. Senate, who eventually have to ratify a treaty, and they know this. They are very sophisticated.

Here the U.S. Senate is going to adopt legislation that everyone knows represents unilateral action in the face of negotiations going on. So all they have to do is wait and see. They do not have to negotiate, they just have to stay there.

El Salvador, the leader of that delegation, commented on this legislative activity going on in the United States this year, and what impact that was having on the conference.

I would like to say something else. Maybe I am a little bit off the ground, but this is the Armed Services Committee. We have been on the receiving end and I will say it bluntly. Former U.S. destroyers, former U.S. cargo vessels, plain shooting at us, with Latin Americans trained in Norfolk, Va., San Diego, Calif., shooting at us.

I think S. 1988 represents another harmful ingredient toward world instability.

We are not going to just have gunboats, I foresee the incentive for people to get nice fancy new missile small vessels, and you are going to have a lot of sophisticated updated missile vessels, not gunboats, around here, each trying to represent, each trying to defend their so-called national interests.

Contrary to what people say, we have seen claims for fishing generate into claims for territorial seas. Our problem this year involved in the seizure was, here was a cook on our boat, after receiving word from a public health officer in San Francisco, saying that he had to be taken to Panama, the Canal Zone, for treatment; the vessel skipper

went straight ahead—this is not fishing, just a straight on course, so-called innocent passage, even more innocent in my opinion, heading for the Canal Zone, intercepted by a Panamanian gunboat, seized, tossed in the jail, forgotten overnight. We had one heck of a time getting the cook off the boat so we could fly him back home for treatment.

That was not a seizure based on unlawful fishing, the vessel was merely on its way to the Canal Zone to take a man in for sickness.

So what we have involved here when we claim extensions is not merely access, but do we not have the same rights of innocent passage as the other vessels?

Based on my experience in the problems that I have been involved in, I just cannot see how anyone can claim that this type of legislation with the leadership of the United States going unilateral, recognizing what the International Court of Justice just did during the last summer, here the United States now is going to say, yes, we signed some treaties back there in Geneva in 1958 but we do not believe in that any more, we want to go ahead and move unilaterally.

Yes; the negotiations are going on now. Right, it is only 3 or 4 months away but we are going to go unilateral anyway and then the only argument that I can see that has been made, well, what we are doing here is pushing other countries, what we are saying and what we are doing toward a successful negotiation.

I did not see that down there in Caracas. I saw the opposite. I saw people being placed in concrete because the basic premise of their position had been and still is that, one, we will decide unilaterally how far we are going to extend our sovereignty in the oceans, and we do not see anything wrong with the United States doing what you want to do under S. 1988, it merely bolsters our position, so why should we go into a conference that will establish conditions to our basic claims, you are coming along our way.

There are alternatives to S. 1988: First, in view of what has happened in the International Court of Justice.

Second, we signed a treaty in 1958, Convention on Fishing and Conservation. The Senate ratified this treaty in 1964. But there has never been any Federal statute implementing that convention.

There are some problems with article 7 of the convention, but I think in view of what has happened in the ICJ, I think there is a way of curing some of the problems with respect to those countries who are not signatory to this convention.

In other words, we feel that there should be a rifle shot type of approach toward legislation, when you have conservation problems rather than this type of meatax approach that is involved in the design of S. 1988.

So I though about this a long time. I am sorry I do not have a completely prepared statement, Senator, but I just feel that this legislation is highly discriminatory, it is obviously divisive, and while it claims to be a conservation measure, it is thoroughly defective, because I defy anyone to show me that some agencies of this Government have been delegated regulatory authority to take action, because the way I see it, some council is going to have to come up with a management plan and eventually there is going to be some sort of management of the stocks that are in trouble.

Without getting into other details, Senator, I would like, as I said, an opportunity to submit a written statement later on.

The CHAIRMAN. That is a statement you are going to compose later?

Mr. FELANDO. Yes.

[The prepared statement follows:]

My name is August Felando. I am appearing before this Committee on behalf of the American Tunaboat Association. I am the General Manager of this 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 (ATA) has been in existence since 1923. The membership is comprised exclusively of U.S. flag tuna fishing vessel owners.

POSITION OF THE ATA ON S. 1988

We oppose the passage of S. 1988 because (1) it adversely affects existing treaties that provide for the rational use and conservation of tunas presently harvested by our members in the Eastern Pacific and Atlantic Oceans, because (2) it adversely affects the opportunity of our Government to strengthen such existing tuna conservation regimes or to create new international conservation organizations to manage the tunas, and because (3) contrary to its announced purpose, it denies protection to the U.S. Tuna Industry, particularly the U.S. flag tuna fleet operating in waters beyond the jurisdiction of the United States.

HOW DOES S. 1988 IMPLEMENT ITS PURPOSES?

S. 1988 purports to protect the U.S. fishing industry until present Law of the Sea negotiations sponsored by the United Nations on the extent of contiguous fishery zones and management authority over anadromous fish are completed, and "until an effective international regulatory regime comes into full force and effect".

Three methods are used to provide each purported protection. First, S. 1988 amends an existing Federal statute called "An Act to establish a contiguous fishery zone beyond the territorial sea of the United States" (Public Law 89-658 of October 14, 1966; 16 U.S.C. 1091-1094). At present, such statute establishes a fisheries zone contiguous to the territorial sea of the United States. It also provides that the width of such fishery zone, that is, the distance from the inner boundary to the seaward boundary, be 9 nautical miles. At present, the width of the territorial sea of the United States is 3 nautical miles.

S. 1988 changes the breadth of such fishery zone to 197 nautical miles. S. 1988 is generally called a "200 mile limit" Bill because the total jurisdiction claimed for the United States under the concept of the territorial sea and the contiguous fishery zone is presently computed to be 200 nautical miles. It is important to point out that the existing statute referred to above is silent on the breadth of the territorial sea of the United States. S. 1988, therefore, does not propose to limit the total breadth of the territorial sea and fisheries zone to an established distance, let us say to 200 nautical miles. In this respect, S. 1988 opens the door for a future automatic claim of jurisdiction far beyond 200 miles should this country widen its territorial sea beyond 3 miles in the future.

The second device that is used to provide such purported protection to the U.S. Fishing Industry is merely to extend "jurisdiction to its anadromous fish wherever they may range in the oceans . . .".

The third method adopted by S. 1988 to attain its objectives is to place an affirmative duty on the Secretary of State to negotiate new treaties or agreements or amendments to existing treaties, conventions and agreements covering fish subject to the exclusive jurisdiction of the United States, and to seek treaties or agreements covering fish that are not subject to the exclusive jurisdiction of the United States.

At this Hearing, I shall not discuss the impact of S. 1988 on U.S. fisheries engaged in the taking of anadromous fish as defined in such Bill.

What does S. 1988 attempt to do for the protection of the U.S. Tuna Industry, if anything?

We believe that it is well recognized that the Tunas are a species of fish that cannot be subject to the exclusive jurisdiction of any one Nation, let alone the United States. This is because of the unique biological characteristics of the tunas. The ocean distribution and life history of the tunas reveal that their

populations range over extensive ocean areas, that they undertake long migrations and are of high mobility. This point has been extensively and specially documented by the U.S. Delegation to the U.N. Committee that was organized to prepare for the Law of the Sea Conference. (Please refer to the copy of the document attached hereto and entitled "Special Considerations regarding the management of anadromous fishes and highly migratory oceanic fish; working paper submitted by the United States." Congress has also upheld the special characterization of the tunas, and the need to have an international fisheries organization approach towards the conservation and management of the tunas. I refer to the Treaties and implementing legislation connected with the *Inter-American Tropical Tuna Commission* and the *International Commission for the Conservation of the Atlantic Tunas.*

It is also clear that the tunas are treated in S. 1988 as a fish that cannot be exclusively controlled within the fishery zone of the United States. This is apparently why the Secretary of State is under an obligation under Section 5(4)(c) to "seek treaties or agreements with appropriate foreign countries to provide for the rational use and conservation of . . . (c) fish originating in the high seas through strengthening existing, or, where needed, creating new international conservation organizations; . . ."

It is also the apparent reason why S. 1988 makes reference to the need for amending existing fishery Treaties, Conventions and Agreements to which the United States is a party in Section 5(2), and why S. 1988 in Section 11 states that "Nothing contained in the Act shall be construed to abrogate any treaty or convention to which the United States is a party on the date of the enactment of this Act."

From the language contained in Sections 5 and 11, it can be asserted correctly that S. 1988 does not force the withdrawal of the United States from the two Treaties that have established international fisheries organizations to deal with conservation and management of tunas, namely the Inter-American Tropical Tuna Commission (IATTC) and the International Commission for the Conservation of the Atlantic Tunas (ICCAT).

We agree with this interpretation of the provisions of Sections 5 and 11. But, the real question is whether S. 1988 in establishing a 200 mile exclusive fishing zone off the coast and islands of the United States will have an adverse impact on the future existence and operation of the IATTC and ICCAT. What will be the reactions of the other countries who are members of these organizations? Will these organizations be able to implement effective conservation measures? Will these organizations be able to attract new members?

In our opinion, S. 1988 will destroy the IATTC and ICCAT, and will make the creation of new international fisheries organizations dealing with the conservation of tunas an impossible dream. This opinion is supported by factual information developed during the 25 year history of the IATTC.

At present, 8 countries are members of the IATTC, namely Canada, Costa Rica, France, Japan, Mexico, Nicaragua, Panama and the United States. None of these countries enforce a 200 mile exclusive fishing zone. None of these countries enforce a requirement that all foreign flag fishing vessels must have a tuna fishing license as a condition to fish beyond the 12 mile limit.

Two countries have aggressively enforced an exclusive 200 mile limit against U.S. flag vessels off their coasts and islands in the Eastern Pacific, namely Ecuador and Peru. Ecuador joined the IATTC in 1961, and then after amending its Constitution to establish a 200 mile territorial sea, Ecuador denounced the Treaty and left the IATTC in August 1968. Peru has always refused to join the IATTC on the ground that participation in such international organization would derogate its 200 mile exclusive fishing zone. Thus, we have the experience in the Pacific where countries use a 200 mile exclusive fishery zone to get out of multilateral agreements, such as Ecuador, or to refuse to join such arrangements, as in the case of Peru.

In recent years, as a participant to the annual meetings of the IATTC, I have witnessed representatives of member countries to the IATTC use the threat of denouncing the IATTC and of establishing a 200 mile exclusive fishing zone.

In 1971, a resolution was passed during the 10th Inter-Governmental Meeting of the Conservation of Yellowfin Tuna, requesting member Governments of the IATTC to establish a working group to study the regulatory system for yellowfin tuna fishing in the Eastern Pacific. (Regulatory measures have been implemented on such fishery since 1966.) The Working Group was established and the study was made. Such study included an evaluation of the impact of

200 mile exclusive fishing zones utilizing data published by the IATTC. This evaluation concluded that the yellowfin tuna stock "cannot be managed effectively without the cooperative efforts of all countries fishing the Eastern Pacific both inside and outside the 200 mile zones."

Thus, we have good reasons supporting our belief that if S. 1988 becomes law, other member countries of the IATTC and ICCAT will also declare immediate unilateral extensions of exclusive fishery zones of 200 or more nautical miles. They have been voicing this as a possibility; S. 1988 will give them the excuse to act and the reason to explain their actions.

The next question is whether IATTC and ICCAT would be able to function in an effective manner over a fishery that is subject to 200 mile exclusive fishing zones. We have strong reasons to believe that such organizations will no longer be viable or workable as a device to conserve and manage the tunas in the Pacific and the Atlantic. The only international fisheries organization composed of countries who each claim a 200 mile fishery zone in the South Pacific Commission. Chile, Ecuador and Peru are the only members of this Commission. This Commission is a total failure as a conservation and management organization.

Besides using the South Pacific Commission as a measure of evaluating the impact of 200 mile exclusive fishing zones on IATTC and ICCAT, the reality of the new rules of access to fishing grounds offers reasons to support our belief that the IATTC and ICCAT will not be able to continue to implement effective conservation measures on the tunas.

Attached hereto is a Chart and Table providing factual information about the Eastern Tropical Pacific Tuna Fishery.

TABLE 12.—AREA WITHIN CYRA ZONES

TABIA 12.—AREA DENTRO DE LAS ZONAS DEL ARCAA

Country	Number and percent of square nautical miles within—						Percent of CYRA within 200 mi
	12 mi	Percent	12 to 200 mi	Percent	200 mi	Percent	
Chile	8,765	6.0	220,538	11.2	229,303	10.8	4.6
Colombia	8,385	5.6	90,201	4.6	98,586	4.7	2.0
Costa Rica	6,651	4.5	151,232	7.7	157,883	7.5	3.1
Ecuador	17,623	11.9	295,744	15.0	313,367	14.8	6.3
Mexico	58,802	39.6	654,952	33.3	713,754	33.8	14.2
Panama	10,900	7.3	38,128	2.0	49,028	2.3	1.0
Peru	18,621	12.5	227,601	11.6	246,222	11.6	4.9
United States	10,322	7.0	94,555	4.8	104,877	5.0	2.1
Nicaragua	2,822	1.9	14,437	.7	17,259	.8	.3
France (Clipperton Island)	706	.5	124,161	6.3	124,867	5.9	2.5
El Salvador	2,556	1.7	22,293	1.2	24,849	1.2	.5
Guatamala	2,232	1.5	31,604	1.6	33,836	1.6	.7
Total	148,385	100.0	1,965,446	100.0	2,113,831	100.0	42.2

Note: Percent of CYRA: Inside 200 mi, 42.2; outside 200 mi, 57.8; within 12 to 200 mi, 39.2; within 12 mi, 3.

AREA OUTSIDE OF 200 MILES BUT WITHIN CYRA

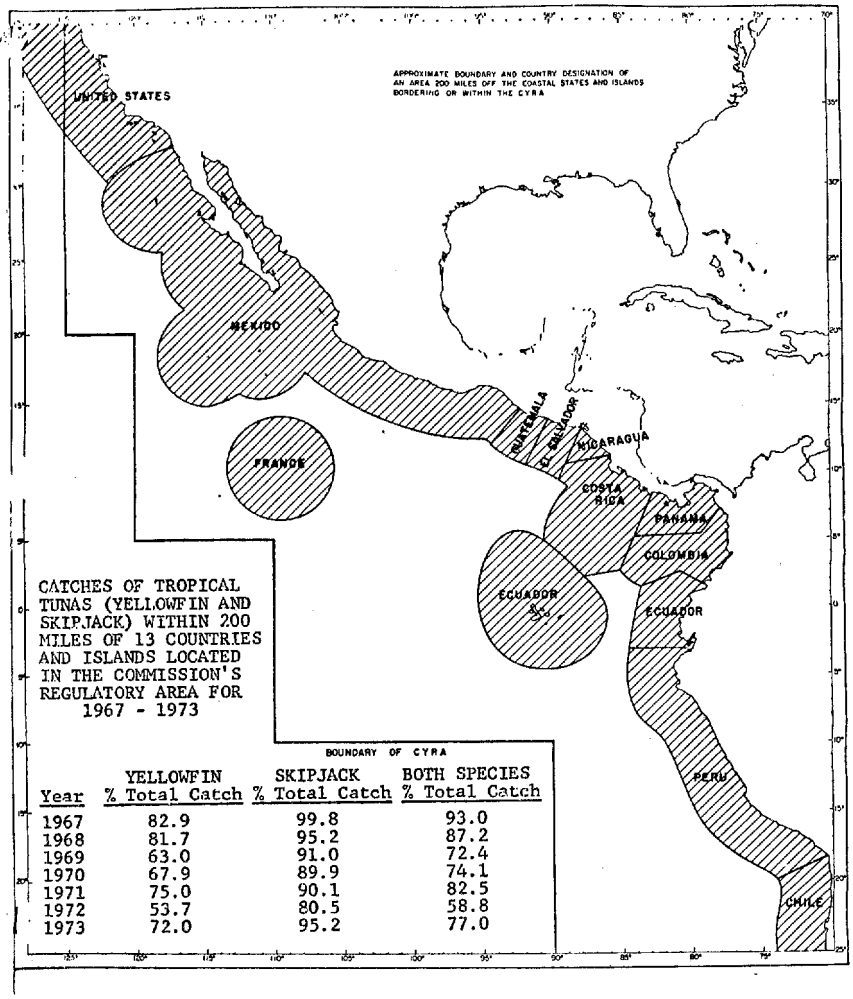
Degrees of latitude	Number of square miles	Percent outside 200 mi
0 to 4 N	293,275	10.1
5 to 9 N	482,995	16.6
10 to 14 N	332,590	11.5
15 to 19 N	67,032	2.3
20 to 24 N	113,819	3.9
25 to 29 N	55,785	1.9
30 to 34 N	19,454	.7
35 to 39 N	0	0
0 to 4 S	329,585	11.4
5 to 9 S	546,186	15.7
10 to 14 S	155,324	5.4
15 to 19 S	207,612	7.2
20 to 24 S	231,355	8.0
25 to 29 S	153,800	5.3
Total	2,898,812	100.0
Total within CYRA	5,012,643	

As the IATTC Table and Chart indicates, about 42% of the Commission's Yellowfin Regulatory Area (CYRA) is within 200 nautical miles of twelve countries. The total area of the CYRA is about 5,012,643 square miles, the area excluded by application of the 200 mile limit comes to 2,113,831 square miles.

During the period 1967–1973, the combined catch of yellowfin and skipjack taken within 200 miles has averaged annually 78% of the total combined catch of such species taken within CYRA.

The catch off the coasts of each of these 12 countries varies considerably from year to year. During a 7 year period (1967–1973), the catch of yellowfin tuna and skipjack tuna estimated to have been taken within the CYRA and within 200 miles of the United States has been 100 tons. The total tuna catch within the CYRA for the 7 year period 1967–1973 was 1,441,122 tons.

We believe that the right to exclusive access to little or to some or to much or to none of the tunas within the 200 mile exclusive fishing zone will have a tre-



CATCHES OF TROPICAL TUNAS (YELLOWFIN AND SKIPJACK) WITHIN 200 MILES OF 13 COUNTRIES AND ISLANDS LOCATED IN THE COMMISSION'S REGULATORY AREA FOR 1967 - 1973

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

mendous impact on the political will of a country to seek international cooperation via an international fisheries organization. Our experience is that the impact has not been adverse on the spirit of international cooperation if the

right to deny access is limited to a 12 mile exclusive fishing zone. S. 1988 will change the "ball game", because the legal right of access to the tunas will change as well as the legal right of transit within 2.1 million square miles of the fishing grounds regulated by the IATTC. (Please see Tables 1 and 2.)

We believe it is clearly demonstrated that S. 1988 will cause other countries in the world, particularly member countries to international fisheries organizations like the IATTC and ICCAT to duplicate the action taken by the United States. Further, that this will justify and excuse the actions of these countries to denounce such Treaties and/or to never support or join such efforts of international cooperation to manage the tunas. Also, that since the rules of access and transit within the fishing grounds would be so radically changed, international fisheries organizations like IATTC and ICCAT would no longer be able to function as viable vehicles of conservation and management. Finally, we believe it most illusory and bordering on irrationalism to suggest as it does in S. 1988, that the Secretary of State would be in a practical position to seek new treaties or to strengthen existing treaties for the purpose of providing for the rational use and conservation of tunas on an interim basis. We read S. 1988 as giving the Secretary of State the task of persuading countries to reverse their unilateral extensions on an interim basis just after we have announced our unilateral extension for the purpose of agreeing to a multilateral agreement that will negate such unilateral extensions.

In this respect, therefore, we strongly believe that S. 1988 does not protect the U.S. Tuna Industry; it in fact does a disservice to our Country and to the principle of conservation and management of fishing resources. S. 1988 would represent a "stab in the back" to the conservation regimes established by the IATTC and ICCAT, and to future actions to strengthen such organizations or to create new international conservation organizations dealing with the tunas.

Because of the need to go into other aspects of S. 1988, I have produced only statistics and information on the Eastern Tropical Pacific Tuna Fishery as regulated by the IATTC. In 1966, the United States ratified the International Convention for the Conservation of the Atlantic Tunas. At present, there are 13 countries who are members of the Commission created by this Convention, namely Brazil, Canada, France, Ghana, Ivory Coast, Japan, Korea, Morocco, Portugal, Senegal, South Africa, Spain and the United States. This Commission (ICCAT) initiated regulatory measures on yellowfin tuna in 1972, and is presently examining various regulatory measures on the albacore, bluefin and skipjack fisheries. We believe that the facts and reasons used to explain the situation applicable to the Pacific Tunas are also true for the tunas in all other oceans and seas, including the ICCAT regime.

S. 1988 subjects the United States to a well-founded charge of international bad faith.

We have outlined above the adverse impact of S. 1988 on two Treaties that establish international Commissions having the duty to conserve and manage tunas in the Pacific (IATTC) and the Atlantic (ICCAT). We also charge that S. 1988 has an adverse impact on other Treaties signed by the United States.

According to Section 11 of S. 1988, nothing in the Act is to be construed to abrogate any Treaty or Convention to which the United States is a party on the enactment of the Act. We are not in a position to enumerate all of the Treaties or Conventions that would be affected by S. 1988. Nor do we have a listing of all the treaties, conventions and agreements that would have to be reviewed by the Secretary of State for the purpose of making them consistent with the policies and provisions of S. 1988 on an interim basis. We hope this Committee will examine this aspect of S. 1988 in a very careful and thorough manner.

We have pointed out to this Committee two Tuna Conventions. We have no knowledge of other Bilateral or Multilateral Agreements touching specifically on tuna. However, we are very much concerned about the impact of S. 1988 on the Conventions ratified by this Country that deal with the Law of the Sea.

We believe that S. 1988 is in direct conflict with the Geneva Convention on Territorial Sea and Contiguous Zone, April 20, 1958. I refer to Part II of such Convention. Such Part refers to the right of a Coastal Nation to establish a contiguous zone to its territorial sea. In paragraph 3 of Part II, a limitation on the extent to which such Coastal Nation can extend such zone is established:

"The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured." (emphasis added)

S. 1988 amends a Federal statute to extend a fishery contiguous zone from 9 to 197 nautical miles.

In Article 2 of the Convention on the High Seas, April 29, 1958, it is provided:

"The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under conditions laid down by these articles and by other rules of international law. It comprises, inter alia both for coastal and non-coastal States: . . .

"2. Freedom of fishing."

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

The Federal statute amended by Section 3 of S. 1988 provides that "the United States will exercise the same exclusive rights in respect to fisheries in the zone as it has in its territorial sea." In establishing a conditional jursdiction over anadromous fish "wherever they may range in the oceans" and in establishing a 197 nautical mile contiguous fishery zone, S. 1988 is in conflict with the Convention on the High Seas.

In Article 1 of the Convention on Fishing and Conservation of the Living Resources of the High Seas, April 29, 1958, it is provided:

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

Without going into other details of this Convention, we believe S. 1988 is in direct conflict with such Convention and strongly invite the Committee to examine this aspect of S. 1988 in the most thorough manner possible.

S. 1988 represents a unilateral declaration of jurisdiction. And, it has been the traditional position of the United States that it does not recognize any unilateral extension of either the territorial sea or zones of exclusive fishing rights. The fact that this Nation is undertaking an effort to help resolve the Law of the Sea by participating in the United Nations Conference is evidence of its policy against unilateral extensions of sovereignty or jurisdiction. The experience of the U.S. Tuna Fleet off Ecuador and Peru in suffering through 203 illegal high seas seizures and many harassment incidents since 1961 is based upon the position that the United States does not recognize unilateral extensions. We agree with John Norton Moore, Chairman, the National Security Council Interagency Task Force on the Law of the Sea, and Deputy Special Representative of the President for the Law of the Sea Conference, when he presented the views of the Executive Branch on S. 1988:

"A unilateral declaration of fisheries jurisdiction at this time could seriously undermine our efforts in the Law of the Sea Conference and greatly hamper the chances for a satisfactory settlement of the fisheries question on a multilateral basis."

Since the summer of 1971, I have attended all preparatory conferences held by the United Nations Committee preparing for the Law of the Sea Conference, and I have participated both as one of the four fisheries expert to the U.S. Delegation to such U.N. Committee and as advisor to the Department of State Law of the Sea Advisory Committee. I agree with Mr. Moore's evaluation of the impact of S. 1988 on the Law of the Sea Conference completely.

S. 1988 represents such a reversal of traditional policies by the United States, such an apparent breach of existing Treaties, Conventions and Agreements entered into by the United States, and such a contrast to what has been proposed and offered by the U.S. Law of the Sea Delegation, that it appears obvious to us that S. 1988 characterizes the United States as a country that can't be trusted or believed. S. 1988 represents action that subjects the United States to a well-founded charge of international bad faith.

Based upon information documented by The Geographer, Department of State (October 1973), it is also correct to assert that S. 1988 is contrary to existing international law respecting the breadth of fishing limits based upon the claims of 119 independent costal states.

12 miles, 71 countries; 15 miles, 2 countries; 18 miles, 1 country; 30 miles, 3 countries; 50 miles, 5 countries; 70 miles, 1 country; 100 miles, 1 country; 110 miles, 1 country; 130 miles, 1 country; 200 miles, 10 countries. Modified archipelago, 4 countries.

One additional country claims a "specialized competence" over living resources out to 200 miles, and 4 countries included in the listing above also claim a 100 mile limit conservation zone.

S. 1988 and its Adverse Impact on the U.S. Tuna Industry

S. 1988 would deny the U.S. High Seas Tuna Fleet access to tuna fishing grounds that are essential to their continued economic survival.

According to estimates by experts, if all costal countries claimed a 200 mile limit, an area equal to the total land mass on the globe would be excluded from the classification of high seas. The ocean area enclosed would be roughly 37% to 40% of the world's oceans. With respect to 118 nations listed by The Geographer in his publication entitled "International Boundary Study, Series A, Limits in the Sea. No. 46, Theoretical Areal Allocations of Sea Bed to Costal States, Based on Certain U.N. Sea Beds Committee Propsals", the 200 nautical mile limit proposed would cause an allocation of 24,632,400 square nautical miles.

The attached copy of a portion of a map prepared by The Geographer, Department of State, depicts the 200 mile limit in the latitude of the world of primary interest to the U.S. Tuna Industry. This is the area of the oceans where most if not all of the tropical tunas are caught. Most of the temperate tunas (albacore and bluefin) are caught in ocean areas not depicted by this map.

The other map attached to this Statement covers the IATTC Yellowfin Tuna Regulatory Area.

We estimate that about 6.7 million square miles would be withdrawn under the 200 mile limit and thereby be denied to the U.S. Tuna Fleet. Such a denial of access and transit rights would cause both fishing and navigation nightmares for the U.S. Tuna Fleet. Micronesia alone would have an ocean area under its jurisdiction greater than the size of the Continental United States or about 3.1 million square miles. Micronesia has a total land area of 700 square miles.

We assert that S. 1988 denies access to grounds located within 200 miles of the coast and islands of other countries for the following reasons:

Should S. 1988 become law, then *all U.S. flag vessel owners*, including tuna vessel owners, would have very limited protections from illegal seizures on the high seas by foreign countries. We believe that the legal impact of S. 1988 on "The Fishermen's Protection Act of 1967, as amended by Public Law 92-569 of October 26, 1972, 22 U.S.C. 1971 ff, as amended, results in the following direction to ATA members:

a. that the Fishermen's Protective Act of 1967, as amended, would not apply to a case in which a U.S. flag vessel had been siezed while fishing within 200 miles of the coast or islands of any country, and

b. that the Fishermen's Protective Act of 1967, as amended, would not apply to a case in which a U.S. flag fishing vessel had been seized while *navigating* or *in transit* only as distinguished from fishing, within 200 miles of the coast of any country, Provided, such vessel had not observed such laws and regulations as such country made and published in order to prevent foreign fishing vessels from fishing within 200 miles of its coast. This opinion is based upon our understanding of Subsection A, Section III, Part I, of the *Convention on Territorial Sea and Contiguous Zone*, April 20, 1958, which provides

"5. Passage of foreign fishing vessels shall not be considered innocent if they do not observe such laws and regulations as the coastal State may make and publish in order to prevent those vessels from fishing in the territorial sea."

At the present time, our Government informs owners of U.S. flag tuna vessels that they have the right to fish outside the 12 mile fishery zone of any country. Upon the enactment of S. 1988, U.S. flag tuna fishing vessels will be able to fish free of seizure within 200 miles of a country with a 200 mile fishery zone only with the permission or authorization from such country.

We believe that the statistics attached to this Statement reflecting the catch of tunas within 200 miles of the countries bordering the Eastern Tropical Ocean support our view that S. 1988 would deny the U.S. High Seas Tuna Fleet access to tuna fishing grounds that are essential to their continued economic survival.

Statistics and data collected by the National Marine Fisheries Service (NMFS) depicting where the U.S. Tuna Fleet caught the tropical tunas during 1967-1972 in the South Atlantic show that about 100% of the catch was taken within 200 miles of the coast and islands of the countries in the area. I am sure that this information as well as the 1973 catch information is available to the Committee from NMFS upon request. (Compilation of the 1973 data was not available as of this Hearing date.)

According to the NMFS, in 1973, 91% of *all* tuna landed by U.S. vessels in the United States and its possessions, was caught off foreign shores. In 1972, 87%, and in 1971, 84%. NMFS also reports that in 1973, 7% of all tuna landed was taken greater than 12 miles off the coast of the United States. In 1972, 12%, and in 1971, 14%. As it will be developed later, it is important to point out that albacore tuna represented 5.6% of the 7% total for 1973, 9.2% of the 12% total for 1972, and 10.0% of the 14% total for 1971.

Thus, for 1973, the catch of tuna taken within 12 miles was only 2% of all tuna landed by U.S. vessels in the United States and its possessions. In 1972, the catch was 1%; in 1971, 2%. These statistics reveal the importance of insuring the right of U.S. flag tuna vessels to fish off foreign shores beyond 12 miles, the insignificance of the U.S. catch of tuna within 12 miles of its own coast, and the fact that most of the tunas are taken beyond 12 miles of the coast of the United States. (See Tables 3, 4, 5 and 6.)

These statistics also point out the need to distinguish the catch of albacore tuna from the other tunas in determining the impact of S. 1988 on U.S. tuna landings. This is because the canned tuna market is divided into two classifications, canned tuna labeled as albacore or "whitemeat tuna", and canned tuna labeled as "lightmeat tuna", which includes mostly yellowfin, skipjack and bluefin tunas.

In 1972, U.S. canner production of "whitemeat tuna" or albacore came to 9.5 million standard cases; the lightmeat pack was 21.7 million standard cases. Yet, the U.S. albacore fishermen in 1972 only provided 58.0 million pounds of fish, of which 48.0 million pounds was caught 12 miles or more off the U.S. coast, the balance off foreign coasts. In order to meet domestic demands, U.S. canners were required to import 217.8 million pounds of albacore. In 1973, U.S. albacore fishermen provided U.S. canners only 34.6 million pounds, of which 5.5 million was caught off foreign shores. As of November 1973, U.S. canners have imported 206.0 million pounds of albacore.

A different picture is developed when the statistics are examined as to "lightmeat tuna". In 1972, the U.S. "lightmeat tuna" fishermen produced 466.1 million pounds of fish, of which only 3.3 million pounds were caught off the U.S. coast. The U.S. canners were required to import 489.0 million pounds of yellowfin and skipjack to meet the demand in the U.S. market. In 1973, U.S. "lightmeat tuna" fishermen provided U.S. canners with 481.0 million pounds of fish, of which 2.2 million pounds was caught off the U.S. coast. As of November 1973, U.S. canners have imported 426.4 million pounds of "lightmeat tuna". (Imports not converted to round weight for 1973.)

In percentages, therefore, the U.S. albacore fishermen, which principally catches its fish in most years off the U.S. coast, provided in 1972 about 11% of the domestic fish used in the U.S. pack, and 21% of the total fish received by U.S. tuna canners, including domestic and import landings for the "whitemeat tuna" pack only.

With respect to the U.S. "lightmeat tuna" fishermen, the percentages in 1972 were: 89% of the U.S. pack from the domestic catch and 49% of the total fish received by U.S. tuna canners, including domestic and import landings for the "lightmeat tuna" pack only.

It is also a fact that most of the albacore tuna is caught by the baitboat segment of the U.S. Tuna Fleet, and this baitboat fleet also fishes for "lightmeat tunas" to balance off its fishing year. Thus, it is also important for the tuna baitboat fleet to maintain not only access to albacore grounds off foreign coasts but also to maintain access to "lightmeat tuna" fishing grounds. And, since this fleet is composed of relatively small vessels, almost all of its catch comes within 200 miles of the coast and islands of coastal countries.

Thus, it would be incorrect to assume that S. 1988 does not adversely affect the most productive segment of the U.S. albacore fleet. And, further, to ignore the economic importance and crucial dependence of the U.S. Tuna Fleet on access to the "lightmeat tunas", that is, to the yellowfin, skipjack and bluefin tunas. And, finally, to recognize that the U.S. canner is almost completely dependent upon that segment of the U.S. Tuna Fleet that operates from California and Puerto Rico for his domestic supply of both albacore and "lightmeat tunas".

S. 1988 has an adverse economic impact on the U.S. Tuna Fleet, and therefore, on the entire California Fishing Industry, which in turn affects adversely the Fisheries of the United States, including Fishery foreign trade.

I am informed that this Committee will receive at a later date a detailed economic impact study on the impact of S. 1988 on the entire U.S. Tuna Industry.

At this time, I wish to bring to the Committee's attention some of the facts we think are important when considering the economic impact of S. 1988.

A. Tuna and the California Fishing Industry

1. In 1972, in terms of value of total fish and shellfish to the fishermen (ex-vessel landing value), Tuna represented 79.8% or $74,838,000 of $93,704,000 of all such landing value. This percentage in relationship to total landings of fish and shellfish in California in 1971 was 77.3%, and 74.3% in 1970. (See Table 7.)

2. In 1972, in terms of value of "cannery fish" to the fisherman (ex-vessel landing value), Tuna represented 95.1% or $74,838,000 of $78,658,000 of all such category of fish landing value. This percentage was 94.9% in 1971, and 93.8% in 1970. (See Table 7.)

3. During the period 1939 through 1971, the total value of tuna landed and shipped in California was $1,607,620,731.00. Economists have advised that the multiple formula applicable to the "new wealth" generated by the tuna landed and processed in California ranges from 4 to 7. Using this range of measurement, the dollar impact of the tuna fleet landings alone in California for 1972 ranged from about $300 to $525 million. For the period 1939 through 1970, the dollar impact of tuna has been from $6.4 billion to $11.2 billion.

B. Relationship of the California Fishing Industry to the Fisheries of the United States

1972 and for the 24th consecutive year, San Pedro, California, was the Nation's leading commercial port in terms of fish and shellfish landing value.

During the period 1966–1972, California has led all States in terms of value for 1972, 1971 and 1967, establishing second place for the other four years. During all such seven years, California placed second in terms of volume of landing.

California is a significant and important factor in the United States fisheries, and this is principally due to tuna landings and value.

C. Relationship of Tuna to the Fisheries of the United States

In 1972, tuna was third, or 8.0%, of all fish and shellfish landed in the U.S., and third, or 12.2% of all fish and shellfish values. (Interestingly, Shrimp, Salmon and Tuna, the first three fisheries of the United States in terms of landed value for the country, and also the three fisheries most affected by S. 1988, represented 49.5% of the landed value of all fisheries for 1972.)

In 1972, as to canned fish products processed for human consumption, canned tuna represented 73.9% of the total value of all such products processed in the United States. In 1941, tuna's share of the canned fish market was 13.9%, in 1961, the share was 49.5%. Tuna represents a significant element in the fish protein diet of the U.S. market. In 1972, the 26 plants processing tuna were located in California, Oregon, Washington, Hawaii, American Samoa, Maryland and Puerto Rico.

In order to better illustrate the relationship of the U.S. Fisheries, I have examined four levels of values placed upon fisheries. These levels are at ex-vessel or fishermen's value, the processor's value, and at the foreign trade value (export/import). Based upon a Government publication entitled "Fisheries of the United States, 1972", the following revealing statistics are produced:

Value level	U.S. fisheries	Tuna
Fishermen	$765,500,000	$122,350,000
Processor	2,277,000,000	731,302,000
Foreign trade:		
Imports	1,494,395,000	246,845,000
Exports	157,908,000	[1] 2,000,000
Total	4,694,803,000	1,102,497,000

[1] Estimated.

For 1972, tuna represented about 23% of the total value of U.S. Fisheries. According to the NMFS (MFR Paper 1012), "canned tuna and shrimp account for 35 percent of fishering food products consumed in the United States (24 percent tuna, 11 percent shrimp) . . . The three species (tuna, salmon and shrimp) account for nearly half the U.S. catch of fish sold for human food. . . ."

It is my understanding that important elements of the salmon and shrimp fisheries also oppose S. 1988.

D. Relationship of the U.S. Tuna Fleet and the Fishing Fleet of the United States

As of December 31, 1973, our records show that there were 149 U.S. flag tuna vessels in the U.S. Fleet that have a frozen tuna carrying capacity of over 100 tons. The gross tonnage of this fleet was 100,746 tons. We estimate that as of December 1973, the entire U.S. fishing fleet limited to 5 net tons and over as documented by the U.S Coast Guard included about 13,800 vessels with a gross tonnage of about 650,000 tons.

These statistics indicate that the U.S. Tuna Fleet is composed of relatively large fishing vessels. The U.S. Tuna Fleet, composed primarily of 200 gross tons or greater vessels, represents about 50% of the U.S. flag fishing vessels that are of 200 gross tons or over in the documented fishing fleet of the United States.

The attached Table indicates the tremendous investments that have been made in the U.S. Tuna Purse Seine Fleet in the past years. Additional investments in recent years have also been made in the U.S. Tuna Baitboat Fleet.

The U.S purse seiner is being imitated by our competitors throughout the world. Our fleet is recognized for its high productivity per man, per vessel. At present, a new 1100–1600 ton seiner of competitive design costs between $3 to $4 million. The estimated replacement value of the 200 vessels in the U.S. purse seine and baitboat fleet is about $300 million.

The U.S. Tuna Fleet is recognized as the most valuable, efficient and modern in the entire U.S. Fishing Fleet.

One impact of S. 1988 on this fleet would be to confine it to areas of the Pacific that is recognized as one of the most dangerous ocean weather regions in the world. During the period 1966–1973, there have been recorded by NOAA, 119 tropical storms and hurricanes originating about 200 miles off Guatemala and Mexico. In 1973 alone, there were 5 tropical storms and 7 hurricanes recorded during the period July 30 to October 31.

E. Foreign Trade Impact of S. 1988

It is often argued that S. 1988 should be adopted because it would help restore the balance of trade in fisheries. Based upon foreign trade statistics, we can demonstrate that S. 1988 would cause greater harm than good in this area of foreign trade. In 1972, shellfish and tuna accounted for about $724,350,000 of the $1,233,292,000 spent for the importation of edible fishery products. The balance of imports involve mostly groundfish products. S. 1988 in extending the fishery zone, would have an adverse impact on domestic tuna and shrimp fisheries in that foreign sources would be required to meet domestic demand. At first, the imports of frozen tuna for processing would increase, and then as the pressure for supply builds up, we are of the opinion that the import composition would change from a flow of raw materials for domestic processing to one of a flow of higher valued canned products. Not only would food for human consumption be affected, so also would the pet food market be dramatically changed. At present, relatively little pet food is imported. This is because it is a by-product of the tunas canned for human consumption. Should S. 1988 be passed, we believe tuna importations would increase substantially, and that the foreign trade in fish products would be adversely affected by the promises of S. 1988.

The following represents an examination of the import statistics for the period January–November, 1973:

Value—U.S. general imports for consumption, cumulative January–November 1973

Grand total	$62, 891, 307, 065
Fish and fish preparations	1, 261, 874, 223
Fish, including shellfish—fresh, or simply prepared	1, 111, 488, 222
Fish, except shellfish, fresh, chilled or frozen	662, 143, 158
Fish, except shellfish, salted, dried or smoked	30, 243, 022
Shellfish, except prepared or canned	419, 102, 042
Fish in airtight containers, N.E.S , and fish preparations, including shellfish, N.E.S	150, 386, 001

Based upon these 1973 statistics, canned fish represents only 11.9% or $150 million of the $1,261 billion. Fish imported fresh, chilled or frozen represents 52.5%, while Shellfish represents 33.2%.

Our country's present Law of the Sea position clearly places our distant water fishermen who fish for shellfish in a very difficult position. S. 1988 creates an overnight disaster for such fishermen. In any case, it cannot be argued that S. 1988 would reduce shellfish imports. Thus, shellfish importations will increase, and in fact, it can be argued that S. 1988 would stimulate shellfish import dependency, particularly from Mexico.

With respect to tuna, most of the imports presently come in the form of frozen fish, approximately $180 million for 11 months in 1973, and about $38 million in canned products. This is the area that would be drastically and adversely affected by the passage of S. 1988.

The other import items that could be affected by S. 1988 are represented primarily by the fish imported in a fresh, chilled or frozen form. If we reduce this total by the amount represented by tuna, we are involved with approximately $482 million for 11 months of 1973. An examination of these import statistics reveal that most of the fish comes from Canada, a startling $210 million. The other major importing countries in this category are Iceland, Norway, Denmark—approximately another $150 million. We question whether S. 1988 will reduce imports from these countries.

On the basis of this analysis, we conclude that S. 1988 will not help our foreign trade balance. The evidence is that S. 1988 will actually harm our foreign trade in fish products.

Assuming the passage of S. 1988, what is the prospect of U.S. Tuna Vessels being authorized or permitted to fish and transit within 200 mile exclusive fishing zones.

This option is often offered as an answer to the access and transit problems caused by S. 1988 for U.S. tuna fishermen. We have had considerable experience with fishing licenses in the Tuna Industry. Based upon this experience, we have concluded that such a device has no future, and therefore, fails to mitigate the impact of S. 1988. We believe that S. 1988 is being supported by U.S. coastal fishermen primarily because it represents a promise of a fishermen's "heaven". They believe and are advised that a 200 mile exclusive fishery zone means that U.S. fishermen will be protected from foreign competition. This is why we expect U.S. coastal fishermen to oppose the giving of licenses to foreign fishermen. In fact, the implementation experience of the existing Federal statutes indicates that foreign fishermen have been permitted to fish only pursuant to an international agreement but not by virtue of a license issued by the Secretary of the Treasury. (See 16 U.S.C. 1081–1086.)

We anticipate this same attitude from fishermen of other countries. They will oppose the issuance of licenses to U.S. tuna fishermen, and it will be difficult to persuade them to take a different position than U.S. coastal fishermen.

We are already seeing signs in Latin America that suggests to us that the fishing license system is becoming impractical. The license cost is so prohibitive in Colombia and the procedure so difficult to follow, that in fact, the license system is illusory. The same is true for Ecuador; they have just tripled the cost within the past few weeks to a sum that is economically prohibitive. Mexico requires that 50% of the crew be Mexican citizens as a condition to the purchase of a license, and imposes other restrictions that limit the licenses to an extremely small number of U.S. fishing vessels. Our experiences in the past 15 years with the tuna fishing license systems have convinced us in the realism of the phrase: the power to license, like the power to tax, is also the power to destroy.

On February 7, 1973, Ecuador issued regulations that now require foreign vessels visiting the waters within 200 miles of Ecuador for purposes of tourism or scientific research to have licenses. (A copy of such regulations is offered.) This expansion of the license requirement to vessels other than fishing would be a natural extension of the type of jurisdiction claimed by S. 1988. In time, the fishery contiguous zone will apply to other activities, and in our opinion, it will be difficult to distinguish the difference between the operating effect of a territorial sea and the so-called "contiguous zone". We believe this because this so-called division of sovereignty or jurisdiction is mere legal artifice. Based upon our seizure experience off Latin America, we have concluded that a claim of a narrow territorial sea is meaningless unless such claim is asserted and enforced by our Government. Should S. 1988 be passed, the fishery zone claim must be enforced

if it is to be meaningful. As this process of enforcement develops, the presence of sovereignty and all of its characteristics increases in quality, degree of pressure, and soon becomes overpowering. In effect, all the essential characteristics of Government action that is required to assert and maintain the territorial sea concept is necessarily involved in the implementation of the unilateral claim proposed by S. 1988. We assert that the so-called territorial sea limits of 12 miles or less will soon become either co-extensive with the limits of a fishery zone or face atrophy through indifference of the distant-water State to protect its vessels beyond 12 miles off the coastal Nation claiming a more extensive claim of jurisdiction over vessels.

We have made estimates as to the total cost for licensing during a calendar year off the coasts of 11 countries bordering the Eastern Pacific, and we have concluded that such cost would almost be confiscatory in nature. A conservative cost for one trip off one country for the entire U.S. fleet would be about $1.1 million, and therefore a maximum cost of about $12.1 million off 11 countries. For two trips off 11 countries, $24.2, et cet. In the Atlantic, the U.S. fleet would be fishing or in transit off 20 or more countries. As these facts indicate, a regime that allows the grace of the coastal State to dictate terms of access can create an illusion of a so-called license system for foreign fishermen. S. 1988 is really like a trade barrier established for the benefit of some but not all U.S. fishermen, and in this respect is discriminatory legislation.

Whether a real need exists for S. 1988, and whether it does in fact protect overfished stocks and does protect the U.S. Fishing Industry while awaiting the U.N. Law of the Sea Conference.

We shall assume for purposes of argument that the findings of S. 1988 are correct, and that interim action is necessary "to protect and conserve overfished stocks and to protect our domestic fishing industry". It is still our considered opinion that S. 1988 does not represent the way to effectively protect overfished stocks and the domestic fishing industry on an interim basis.

We assert that S. 1988 will not protect the tuna stocks, and we assert it will destroy and not protect the U.S. Tuna Industry. We also understand that important segments of the salmon and shrimp fisheries take the position that S. 1988 will not protect their fish either and that such proposed interim action will in fact damage their fisheries.

We remind this Committee again that these three species (salmon, shrimp and tuna) account for nearly half the U.S. catch of fish sold for human food, thereby representing a substantial share of the U.S. fishing industry.

Nevertheless, the real issue is whether realistic and acceptable alternatives exist to protect overfished stocks and that segment of the fishing industry dependent on such overfished stocks.

For the purpose of serving the long-term interests of the United States, we have consistently supported the United States fisheries proposal presented to the preparatory sessions of the Law of the Sea Conference. As stated by John Norton Moore, Department of State, to this Committee, the "proposal offers a rational system of managing the United States fishing industry, as well as the diverse interests of the international community". The U.S. proposal provides equal and fair treatment to all U.S. fisheries; S. 1988 does not protect all U.S. fisheries, particularly the three most important fisheries of this country. In this respect S. 1988 is unfair in its approach to solve the speecial and serious problems of some coastal and anadromous fisheries.

We believe that the "meat-ax" approach of S. 1988 is not necessary, and that the most meaningful alternative on an interim basis is for Congress to effectively support the U.S. fishing industry in strengthening both bilateral and multilateral agreements with nations whose vessels fish off U.S. shores.

We in the tuna industry have no agreements with other countries other than the two Tuna Conventions to protect the tunas or our industry. Yet, the coastal and anadromous fishermen have numerous multilateral and bilateral agreements covering all fisheries that are claimed to be endangered by foreign overfishing activities and competition.

We believe the problem of protection for the fish and the U.S. fishermen resides in the effective and equal enforcement of these bilateral and multilateral agreements. This is where Congress can take effective action that will be supported by the entire U.S. industry. We also believe that certain laws and Treaties already exist that provide assistance to the injured coastal and anadromous U.S. fishermen if Congress would move the Executive Agencies to implement them. I

refer for instance, to the Fishermen's Protective Act of 1967 (Public Law 92-219 of December 23, 1971; 22 U.S.C. 1971), which provides restrictions on the importation of fish products from a country whose vessels overfish in violation of an international fishery conservation program. We believe this Committee should undertake an inquiry as to why such protective legislation has not been implemented against foreign fishermen, and then correct such laws if they are deficient.

We also believe the Geneva *Convention on Fishing and Conservation of the Living Resources of the High Seas* is available for protection of U.S. coastal and anadromous fishermen. We ask this Committee to inquire whether this Treaty has been utilized to protect overfished stocks. Such Treaty does allow the United States to adopt unilateral measures of conservation on stocks on the high seas beyond the territorial sea and contiguous fishery zone.

We know that the U.S. utilizes the Geneva *Convention on the Continental Shelf* to protect fisheries, it should also utilize the Fishery Convention.

We are of the opinion that contrary to the proposed findings in Section 2(a) of S. 1988, there does not exist sufficient facts of urgency or emergency that supports the type of interim action proposed by S. 1988.

We note that for 1973, 86% of the landing volume for all U.S. caught fish and shellfish *except tuna* was taken within 12 miles off the U.S. coast. (65% within 0 to 3 miles, and 21% within 3 to 12 miles.) As to 1973 landing values 71% of all U.S. caught fish and shellfish *except tuna* was taken within 12 miles of the U.S. coast. (52% within 0 to 3 miles, and 19% within 3 to 12 miles.) (See Table 4)

In 1973, the total landing value of all fish and shellfish in the U.S. *except tuna* was $839.2 million; in 1972, the comparable value was $644.9 million. This represented a one year increase of about $194.3 million, or 30%. 1973 landings were greater than 1972, and slightly less than 1971. (See table 3.)

It appears to us from these statistics compiled by the NMFS that the U.S. Fishing Industry is healthy.

We have also examined the preliminary statistics on landing values and volumes for 1973 and 1972 covering the States of Maine, Massachusetts, Rhode Island, New York, Maryland and New Jersey. They show that the total volume of fish and shellfish landed in these six East Coast States increased 6% in 1973 over 1972, and that the total value of fish and shellfish landed increased 16% in 1973 over 1972.

[In millions]

	1973		1972	
	Pounds	Amount	Pounds	Amount
Maine	143.3	$43.1	149.3	$34.8
Massachusetts	257.1	44.2	236.6	42.5
Rhode Island	96.6	14.7	81.1	12.5
New York	36.0	21.8	36.9	22.0
New Jersey	209.8	18.4	190.5	14.4
Maryland	63.8	19.9	68.9	19.1
Total	806.6	162.1	763.3	145.3

Source: National Marine Fisheries Service.

These statistics raise some serious questions in our minds as to the "urgency" and "emergency" nature of the interim action proposed by S. 1988. Especially, when the evidence is very strong that S. 1988 will not protect salmon and tuna stocks, and will not protect important segments of the salmon, shrimp and tuna fisheries.

We note further that the present 12 mile fishery zone appears to protect most of the fish caught by U.S. coastal and anadromous fisheries, and that the Continental Shelf doctrine protects most of the Shellfish fisheries. It is our opinion that our Government has enough existing laws and authority to protect our coastal and anadromous fishermen if given a strong enough push by Congress and a united U.S. fishing industry.

For these reasons, we oppose the enactment of S. 1988.

Thank you.

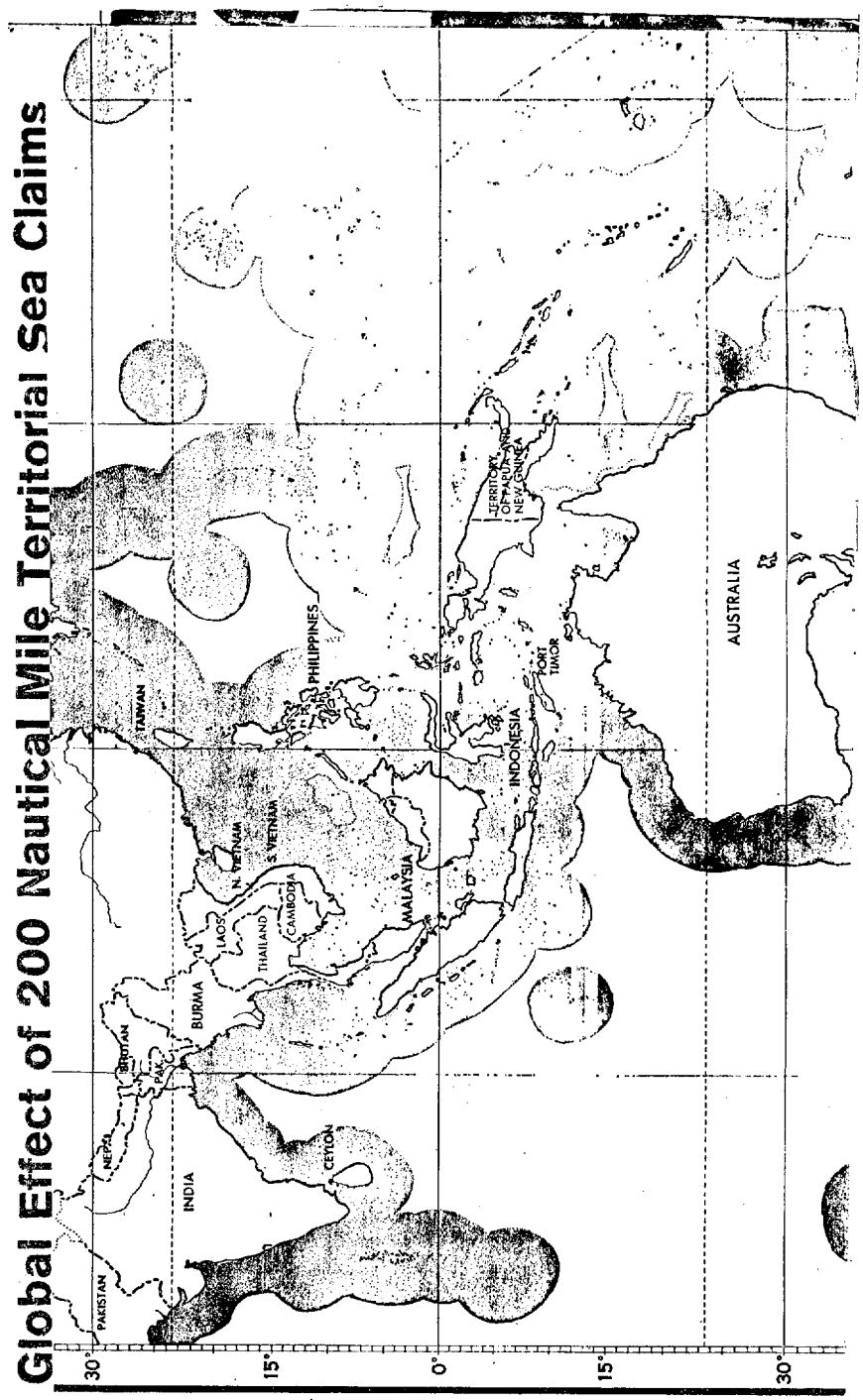


TABLE 1.—YELLOWFIN AND SKIPJACK TUNA ESTIMATED TO HAVE BEEN TAKEN WITHIN 200-MI ZONES AND BEYOND 200 MI

Country	1967	1968	1969	1970	1971	1972	1973
United States	11	13	5	46	25	0	0
Mexico	80,750	50,521	48,876	87,841	39,387	37,258	31,113
France	107	95	8,668	3,015	2,945	2,598	6,329
El Salvador	1,691	17,568	506	276	2,466	472	1,539
Guatemala	5,017	14,487	6,484	559	4,214	3,863	2,935
Nicaragua	183	3,419	312	244	2,797	29	251
Costa Rica	4,213	25,052	10,475	11,630	40,266	18,332	26,924
Panama	754	1,097	708	434	3,712	6,131	33,860
Colombia	2,693	1,940	7,150	1,706	3,636	6,111	31,280
Ecuador	68,494	37,695	36,842	27,503	61,838	27,343	23,567
Peru	42,597	15,666	18,018	13,491	25,627	8,430	14,057
Chile	0	0	0	0	0	0	0
Total	206,510	167,553	138,044	146,745	186,913	110,567	172,055
Outside 200 mi	15,628	24,744	52,660	51,373	39,484	77,577	51,269
Total CRA	222,138	192,297	190,704	198,118	226,397	188,144	223,324

Source: IATTC.

TABLE 2.—YELLOWFIN AND SKIPJACK TUNA ESTIMATED TO HAVE BEEN TAKEN WITHIN 12-MI ZONES

Country	1967	1968	1969	1970	1971	1972	1973
United States	4	4	1	6	5	0	0
Mexico	8,545	5,527	6,145	12,347	5,057	3,738	4,739
France	0	0	63	125	33	31	255
El Salvador	0	4	2	0	0	9	0
Guatemala	7	28	19	2	13	5	14
Nicaragua	4	127	6	31	262	7	23
Costa Rica	10	172	49	591	2,640	267	3,022
Panama	39	12	12	65	686	637	2,780
Colombia	454	384	1,080	79	216	517	3,528
Ecuador	13,815	7,028	6,558	3,954	6,350	2,263	2,732
Peru	4,845	2,706	2,814	2,460	2,966	1,250	3,876
Chile	0	0	0	0	0	0	0
Total	27,723	15,992	16,749	19,660	18,228	8,724	20,969

Source: IATTC.

TABLE 3.—LANDINGS OF FISH AND SHELLFISH BY U.S. FISHING CRAFT BY DISTANCE OFF U.S. SHORES

[In terms of landing value, dollar amounts in thousands]

	0 to 3 miles		3 to 12 miles		Greater than 12 miles		High seas off foreign shores		Total
	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	
1971:									
Total fish	$132,839	44	$40,864	14	$62,955	21	$64,119	21	$300,777
Shellfish	165,229	48	59,559	17	102,089	30	15,546	5	342,423
Grand total	298,068	46	100,423	16	165,044	26	79,665	12	643,200
Less tuna	152	.002	1,297	2	14,204	19	59,863	79	75,516
Total	297,916	53	99,126	17	150,840	27	19,802	3	567,684
1972:									
Total fish	123,384	35	44,654	13	77,611	22	102,564	30	348,213
Shellfish	165,066	40	66,424	15	132,638	32	53,159	13	417,287
Grand total	288,450	38	111,078	15	210,249	27	155,723	20	765,500
Less tuna	226	.008	1,283	1	19,786	16	99,334	83	120,629
Total	288,224	45	109,795	17	190,463	29	56,389	9	644,871
1973:									
Total fish	235,234	48	57,231	12	80,465	16	120,785	24	493,716
Shellfish	205,591	43	103,255	22	121,926	26	46,312	9	477,084
Grand total	440,825	45	160,486	17	202,391	21	167,097	17	970,799
Less tuna	474	.004	1,502	1	15,512	12	114,085	87	131,573
Total	440,351	52	158,984	19	186,879	22	53,012	6	839,226

Source: NMFS

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TABLE 4.—LANDINGS OF FISH AND SHELLFISH BY U.S. FISHING CRAFT BY DISTANCE OFF U.S. SHORES

[In terms of landing volume, pounds in thousands]

	0 to 3 miles		3 to 12 miles		Greater than 12 miles		High seas off foreign shores				Total
	Pounds	Percent	Pounds	Percent	Pounds	Percent	Pounds	Percent			
1971:											
Total fish	2,377,972	59	842,297	21	497,942	12	335,781	8			4,053,922
Shellfish	520,077	57	210,079	23	165,714	18	19,538	2			915,408
Grand total	2,898,049	59	1,052,376	21	663,656	13	355,319	7			4,969,400
Less tuna	633	.0019	5,411	2	50,414	14	291,552	84			348,040
Total	2,897,386	63	1,046,965	23	613,242	13	63,767	1			4,621,360
1972:											
Total fish	2,267,602	57	772,112	20	436,600	11	485,541	12			3,961,855
Shellfish	471,935	51	198,502	21	200,459	22	61,349	6			932,245
Grand total	2,739,537	56	970,614	20	637,059	13	546,890	11			4,894,100
Less tuna	1,020	.002	5,408	1	61,204	12	456,743	87			524,375
Total	2,738,517	63	965,206	22	575,855	13	90,147	2			4,369,725
1973:											
Total fish	2,383,077	60	687,207	17	399,434	10	528,522	13			3,998,240
Shellfish	466,524	50	240,035	26	178,641	19	42,860	5			928,060
Grand total	2,849,601	58	927,242	19	578,075	12	571,382	11			4,926,300
Less tuna	1,150	.002	4,440	.008	39,290	7	470,703	91			515,583
Total	2,848,451	65	922,802	21	538,785	12	100,679	2			4,410,717

Source: NMFS.

TABLE 5.—LANDINGS OF TUNA (BY SPECIE) BY U.S. FISHING CRAFT BY DISTANCE OFF U.S. SHORES (IN TERMS OF LANDING VALUE)

[Dollar amounts in thousands]

	Year	0 to 3 mi		3 to 12 mi		Greater than 12 mi		High seas off foreign shores		Total		Grand total
		Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	
Albacore	1973			$35	0.006	$12,044	9	$2,269	2	$14,348	11	$131,573
	1972			66	.01	16,356	14	3,310	3	19,732	16	120,629
	1971	$1	0.001	2	.002	10,508	14	3,551	5	14,062	19	75,516
Bluefin	1973	392	.30	452	.34	1,031	.78	4,580	3	6,455	5	131,573
	1972	91	.08	185	.15	1,117	.93	5,255	4	6,648	6	120,629
	1971	70	.09	129	.17	807	1	3,300	4	4,306	6	75,516
Skipjack	1973	29	.02	866	.66	2,090	2	21,372	16	24,357	19	131,573
	1972	23	.02	704	.69	1,659	1	14,787	12	17,173	14	120,629
	1971	29	.04	926	1	2,148	3	18,650	25	21,753	29	75,516
Yellowfin	1973	48	.04	145	.11	346	.26	85,864	65	86,403	66	131,573
	1972	109	.09	326	.27	653	.54	75,982	63	77,070	64	120,629
	1971	50	.07	174	.23	365	.48	34,362	46	34,951	46	75,516

Source: NMFS.

TABLE 6.—LANDING OF TUNA (BY SPECIE) BY U.S. FISHING CRAFT BY DISTANCE OFF U.S. SHORES (IN TERMS OF LANDING VOLUME)

[Pounds in thousands]

	Year	0 to 3 mi		3 to 12 mi		Greater than 12 mi		High seas off foreign shores		Total		Grand total
		Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	
Albacore	1973			82	.01	28,984	6	5,500	1	34,566	7	515,583
	1972			193	.03	48,281	9	9,789	2	58,263	11	524,375
	1971	8	0.002	3	.0008	34,668	10	10,182	3	44,861	13	348,040
Bluefin	1973	958	.18	1,063	.20	2,237	.43	19,758	4	24,016	5	515,583
	1972	570	.11	971	.18	3,290	.63	24,908	5	29,739	6	524,375
	1971	424	.12	822	.23	4,478	1	16,500	5	22,224	6	348,040
Skipjack	1973	101	.02	3,095	.60	7,463	1	93,305	18	103,964	20	515,583
	1972	106	.02	3,258	.62	7,680	1	77,400	15	88,444	17	524,375
	1971	144	.04	4,215	1	10,171	3	100,750	29	115,280	33	348,040
Yellowfin	1973	61	.01	184	.04	602	.12	352,140	68	352,987	68	515,583
	1972	324	.06	975	.19	1,951	.37	344,646	66	347,896	66	524,375
	1971	77	.02	304	.09	664	.19	164,120	47	165,165	47	348,040

Source: NMFS.

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VALUE OF ANNUAL LANDINGS OF COMMERCIAL FISH IN CALIFORNIA, AND PERCENTAGE THEREOF REPRESENTED BY TUNA,[1] 1972-1960, 1955, AND 1952

[In U.S. dollars]

Year	Total landing value	Total tuna landing value	Tuna percentage landing value
1972 [2]	$93,704,000	$74,838,000	79.86
1971	86,266,200	66,705,203	77.32
1970	86,253,713	64,066,695	74.28
1969	62,516,322	45,499,103	72.78
1968	53,695,507	37,164,931	69.21
1967	50,948,900	36,614,466	71.87
1966	55,149,708	39,680,364	71.95
1965	50,116,208	36,193,656	72.22
1964	49,925,674	35,945,891	72.00
1963	48,752,456	35,725,890	73.28
1962	54,264,302	41,144,072	75.82
1961	55,440,728	39,762,267	71.72
1960	48,905,266	35,027,098	71.62
1955	53,184,536	39,088,537	73.50
1951	66,796,883	46,867,670	70.16

[1] Includes tuna-like fish.
[2] Preliminary.

Source: State of California, the Resources Agency, Department of Fish and Game.

TABLE 8.—HISTORICAL REVIEW OF NEW CONSTRUCTION AND CONVERSION IN U.S. PURSE SEINE FLEET, 1957-73

Year	Total vessels	Total capacity	New construction		Military hull conversions		Baitboat hull conversions		Estimated cost (millions)
			Number	Capacity	Number	Capacity	Number	Capacity	
1973	9	10,200	9	10,200					$25.5
1972	16	18,800	15	17,850	1	950			49.5
1971	13	15,150	13	15,150					37.8
1970	11	9,200	11	9,200					20.5
1969	13	8,084	10	6,224	2	1,560	1	300	18.7
1968	4	3,200	4	3,200					6.9
1967	3	2,450	3	2,450					4.1
1966	1	550	1	550					1.0
1965	2	690	1	550				140	1.0
1964	1	779	1	779					1.2
1963	7	5,443	1	779	4	3,959	2	705	5.5
1962	11	4,468	1	779	2	1,042	8	2,647	3.9
1961	21	7,808	1	460	2	1,414	18	5,934	4.8
1960	52	15,264					52	15,264	7.8
1959	14	4,319	1	340			13	3,979	2.4
1958	3	927	2	680			1	247	1.1
1957	4	1,272	3	1,020			1	252	.1
Total	185	108,604	77	70,211	11	8,925	97	29,468	191.8

Note: Prior to 1957, 10 baitboats were converted to purse seiners. The purse seine technique was used extensively on tuna by a large group of vessels from San Pedro. In the industry, this group has been called regular purse seiners. Until the early 1950's the fleet fished seasonally on tuna with more emphasis on the sardine and mackerel fisheries. During the period Jan. 1 through Apr. 1, 1974, 9 vessels have commenced their maiden voyages and 1 vessel has been launched. About 15 other vessels are under construction or order. The value of these 25 vessels is about $75,000,000.

Source: American Tunaboat Association, 1 Tuna Lane, San Diego, Calif.

Mr. FELANDO. I would like to say one thing. All through these years we have been taking the seizure business. We have tried in every way to see whether the United States would prevent a seizure from occurring on the high seas. It never happened. We were always told we were seeking a diplomatic solution and would have the major initiative of the Law of the Seas Conference, and now we see we are heading in that direction, and in our view it is sort of upsetting to see what is happening.

The CHAIRMAN. Mr. Yonker, we are glad to have you, sir.

You are with the Association of Pacific Fisheries?

STATEMENT OF WALTER YONKER, ASSOCIATION OF PACIFIC FISHERIES, SEATTLE, WASH.

Mr. YONKER. Yes, sir.

The CHAIRMAN. Do you have a prepared statement?

Mr. YONKER. A very brief one, sir.

The CHAIRMAN. You would rather read it?

Mr. YONKER. Yes, sir.

My name is Walter Yonker. I am executive director of the Association of Pacific Fisheries from Seattle, Wash.

I am also making this statement today on behalf of the Seiners Association, a group of seine vessel owners, some 186 who operate out of the Seattle area.

By way of background, the Association of Pacific Fisheries repsents salmon canners who produce 90 percent of the U.S. pack and also produce substantial amounts of frozen salmon.

We are opposed to S. 1988 because, while the legislation speaks to a unilateral ban on this country, by this country on the high seas fishing for salmon, it is our view that it will be impossible for this Nation to enforce such a ban.

We also question the legislation because it provides for no immediate management or conservation within the 3- to 100-mile zone; it only provides for a council to study the matter. These are the areas that concern us.

There is no question a 200-mile zone will provide protection. Salmon, as you know, spawn in the inland waters and estuarian waters of their host country, and go to the high seas where they spend from 1 to 4 or 5 years, and return to their own river system.

Under the provisions of the 200-mile limit alone, it would be possible for foreign nationals fishing outside of 200 miles to completely destroy the U.S. salmon runs.

The other problem of the legislation is that it speaks to a high seas ban on salmon fishing imposed unilaterally by the United States.

In the first place, it is very difficult for us to imagine how the United States can mount a surveillance effort which would cover some half-million square miles of the North Pacific Ocean during a major part of the year when salmon would be vulnerable to high sea fishing.

This point is particularly evident when you consider at the same time the United States must now start to patrol or would start to patrol a 200-mile limit.

Additionally, we have a very real concern that the United States would not be able to enforce this provision for protection of the anadromous fish in the area of the ocean beyond any jurisdictional claim. It is difficult for us to believe that the United States will go 400 or 500 miles off its own coast, or the coast of Canada for that matter, inspect and arrest foreign flag vessels. This I think would lead to the reverse of what Mr. Feland spoke to.

We would be practicing gunboat diplomacy on the high seas.

I think a great number of countries would consider this piracy if we started this sort of operation.

Another problem we have on high seas enforcement is that the salmon of both Canada and the United States intermingle in the North Pacific Ocean. This again makes it very difficult for enforcement peo-

ple boarding and inspecting vessels on the high seas to determine whether the vessels are substantially taking American or Canadian salmon.

So the enforcement problem is extremely difficult and it is very unlikely in our view that the United States will undertake such a program.

This country has been involved in the planning and preparatory meeting and a Third Law of the Sea Conference, an exercise that has involved some 10 years. Our country is the leading advocate of such a conference. All of us are well aware that there are many issues of importance to all countries involved.

Fisheries is only one of the issues of importance to the United States. After having gone down this road and pushed as hard as we have, it seems strange that as the Conference is under way that the United States would abandon its position of reaching agreements through a multinational conference and taking jurisdiction on the 200-mile basis.

It seems to us that for the United States to assert such jurisdiction, it is not only inconsistent with our past position, but makes it virtually impossible we will get favorable consideration in such a conference.

For this reason, if for no other, Congress should consider very carefully the course of action which might jeopardize important segments of the American fishing industry, including the salmon fishing in the Pacific Ocean.

We see no future in unilateral protection for salmon. Our only hope is to have international recognition of a ban on high seas fishing. There are many reasons why high seas fishing is wrong. You cannot manage the resource and provide conservation. It is inefficient because you are harvesting immature animals. Scientists have estimated that high seas fishery results in the landed loss of over 60 million pounds of salmon in the world every year.

Finally, high seas fishing on salmon results in a dropout loss. The nets working in the heavy swells of the ocean are estimated to lose about 30 percent of the fish that are caught in the nets initially.

For these reasons, we just do not see that S. 1988 provides any protection for the salmon industry, and we cannot support the legislation for that reason.

[Prepared statement follows:]

PREPARED STATEMENT OF W. V. YONKER

Mr. Chairman, I appreciate the opportunity to appear before the Senate Armed Services Committee. The purpose of my statement today is to express the opposition of the Association of Pacific Fisheries and the Seiners Association to S. 1988.

For your information, the Association of Pacific Fisheries is a trade association which, since 1914, has represented salmon canners of Alaska, Washington, and Oregon who produce in excess of 90 percent of this country's pack of canned salmon. The Association members also produce substantial amounts of frozen salmon. The Seiners Association is an association of seine boat operators who fish primarily for salmon in the above states with a membership of 186. Both of these Associations are headquartered in Seattle, Washington.

We are opposed to S. 1988 because, while the legislation speaks to a unilateral ban by this country on the high seas fishing for salmon, it is our view that this nation will not be able to enforce such a ban beyond any claim of national jurisdiction. Also, we feel that the proposed legislation does not adequately provide for management and conservation of our fishery resources in the 3 to 200 miles.

Extended jurisdiction by the United States over its coastal waters to a distance of 200 miles will obviously provide protection for its coastal fisheries. However

it seems to us that the real responsibility of our government is to provide protection to all segments of its fishing industry and this will not be accomplished under the provisions of S. 1988.

To illustrate this point, the nation's fishery on Pacific salmon would be decimated by a 200-mile limit. If, for example, Japan alone were to fish for salmon in the Gulf of Alaska with its present fleet of ten monthership and 350 catch boats for its present 60-day fishing period it would have the capacity of taking approximately 23,500,000 salmon of North American origin (see chart). Based on 1973 prices such a catch would have amounted to $105,500,000. Two-thirds of this total interception would be U.S. salmon ($70,500,000). The present rate of interceptions of U.S. salmon by foreign nationals averages about 3,500,000 per year.

The National Marine Fisheries Services estimates this take as follows:

Sockeye	15,180,000	Steelhead	330,000
Pinks	4,555,000	Chinooks	25,000
Chums	3,100,000		
Cohos	265,000	Total	23,455,000

These estimates show that a 200-mile line by itself would not provide an adequate degree of protection for North American salmon stocks.

Additionally, a high seas fishery for salmon is completely destructive because immature fish are harvested, management of runs to individual river systems is impossible, and there are excessive numbers of fish lost from high seas nets.

S. 1988 provides that the United States will extend its jurisdiction to its anadromous fish wherever they may range in the oceans. It is our view that this unilateral extension of jurisdiction of anadromous fish will not in fact protect anadromous fish. In the first place it is very difficult for us to imagine how the United States can mount a surevillance effort which would cover some half million square miles of the North Pacific Ocean during a major part of the year when salmon would be vulnerable to a high seas net fishery outside of 200 miles. This point is particularly evident when we consider that at the same time the United States must mount a greater patrol than that presenly used to enforce a 200-mile provision.

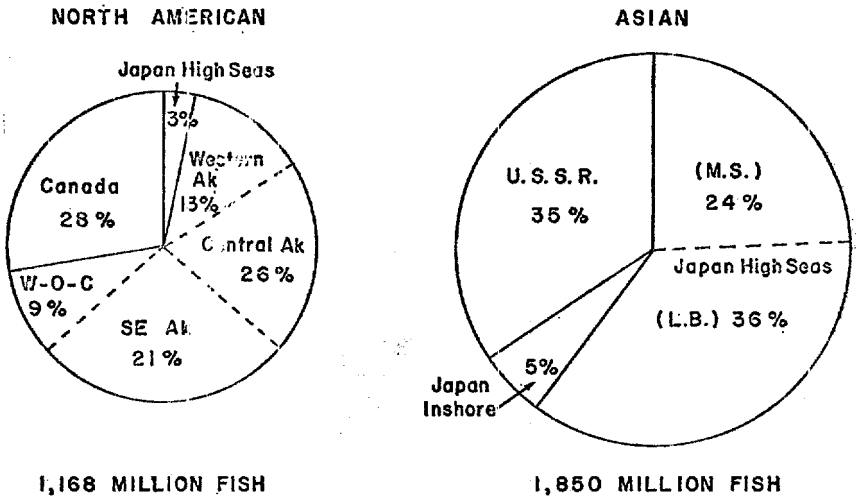
Additionally, we have a very real concern that the United States would not be able to enforce this provision for protection of anadromous fish in an area of the oceans beyond any jurisdictional claim. It is difficult for us to believe that the United States would go 500 or 600 miles off its own coast or the coast of Canada for that matter and arrest foreign nationals for fishing United States salmon on the high seas. This probably would be considered an act of piracy by other countries. Because of the intermingling of North American salmon in the Gulf of Alaska, which we mentioned earlier, we doubt that there is sufficient scientific data to determine whether or not such foreign nationals would be fishing on Canadian or United States salmon; undoubtedly they would be fishing on stocks from both countries. Proof that foreign vessels were catching primarily U.S. salmon and not salmon primarily of Asian or Canadian origin would be practically impossible on a vessel by vessel basis. Assuming such proof were necessary to apprehend foreign vessels, enforcement beyond 200 miles would be non-existent.

This country has been involved in the planning, preparatory meetings, and the Third Law of the Sea Conference, an exercise that has involved ten years of time. Our country is the leading advocate of such a conference and all of us are well aware that there are many issues of importance to all countries involved. Fisheries is only one of the issues of importance to the United States. After having gone down this road and pushed as hard as we have, it seems strange that on the very eve of the Conference the United States would abandon its position of reaching an agreement through a multination conference and take jurisdiction over fisheries 200 miles off the coast. It seems to us that for the United States to assert such jurisdiction is not only inconsistent with our past position but also makes it virtually impossible that we would get favorable consideration in the Law of the Sea for the special exceptions which are required if we are to preserve salmon and other important species of fish such as tuna and shrimp. For that reason if for no other, Congress should consider very carefully the course of action which might jeopardize important segments of the American fishing industry, including the salmon of the Pacific Northwest and Alaska.

We appreciate that S. 1988 provides very good protection for coastal fisheries but for the reasons detailed above, we do not see that the proposed legislation adequately protects salmon and in fact its enactment could reduce the limited

protection that the salmon industry has now. We strongly urge that for the above reasons S. 1988 not be given favorable consideration by this committee.

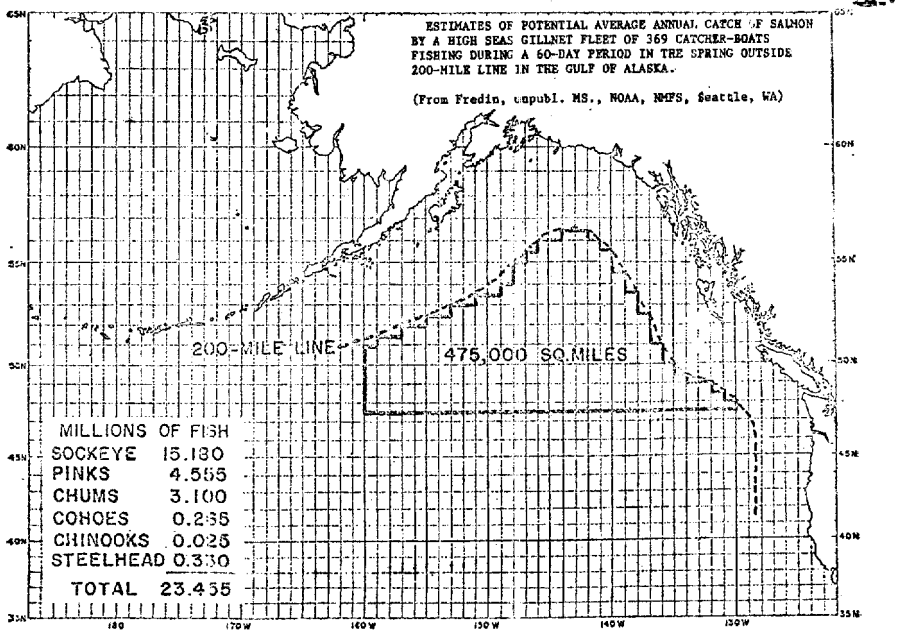
I.

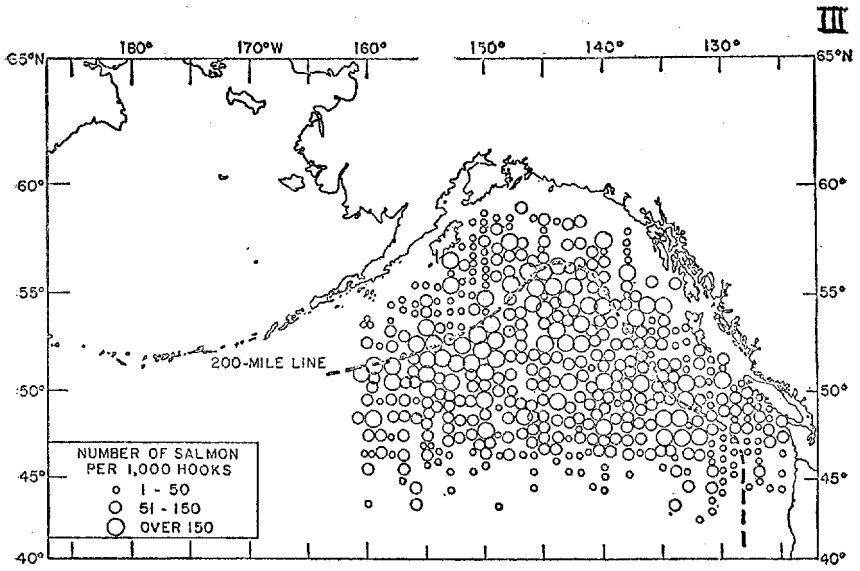


CATCHES OF NORTH AMERICAN AND ASIAN SALMON, ALL SPECIES AND 1954 TO 1968 COMBINED AND PERCENTAGES TAKEN BY FISHERY - AREA - COUNTRY

(From Fredin, unpubl. MS., NOAA, NMFS, Seattle, WA)

II.





DISTRIBUTION OF SALMON IN THE GULF OF ALASKA DURING APRIL, MAY AND EARLY JUNE
1962-1966 LONGLINE SURVEYS (ALL SPECIES COMBINED)

(From Fredin, unpubl. MS., NOAA, NMFS, Seattle, WA)

The CHAIRMAN. We have Mr. Carry. We are glad to have you here. You represent the Tuna Research Foundation?

STATEMENT OF CHARLES CARRY, TUNA RESEARCH FOUNDATION, TERMINAL ISLAND, CALIF.

Mr. CARRY. Yes, Mr. Chairman. That is a trade association representing 85 percent of the production of canned tuna in the United States.

Mr. Felando and I came in from Mexico City at 10:30. We have been there at another international conference.

I would like an opportunity to file a statement later.

I might say for the record that I testified extensively in two hearings before the Senate Commerce Committee. The material is now printed, the transcript is now available, and part 2 contains our testimony for future reference.

The CHAIRMAN. That is fine. We have already sent for that testimony, by the way, and we are going to have the benefit of it.

Mr. CARRY. I want to touch on two points, Mr. Chairman, that have not been touched on by my friends here, and these are points that I think are very important.

In the first instance, this legislation is absolutely useless, as it reads, and I cannot cite the page or the line at the moment, I have not looked at it for several months. It says this will not supersede any international agreement we now have.

All of us, the species that are at risk are covered by these agreements. Therefore, you cannot do anything under this legislation to protect them.

Secondly, 77 to 80 percent of all of the fish caught by the U.S. coastal fishermen are caught inside the current 12-mile contiguous zone. So the only thing left is 23 percent, and a good bit of that is tuna caught off of the other coasts.

So really, this is, as the old saying goes, a tempest in a teapot, and it is probably a hoax on some of the people that think it will help them. It just will not do them any good.

I was at Caracas, as all of us were. We saw the effect down there on our negotiating posture. It was disastrous. And that is one of the reasons why we are here today to tell you that, because we want you to know it ruined every chance that the United States had to negotiate anything of any value, and it was all because of this pending legislation.

Mr. Chairman, those are the only three points I want to make. I will submit a statement later, but I want to get those three points before you.

The CHAIRMAN. Thank you very much.

All right, now, all four of you gentlemen.

I yield to Senator Thurmond.

Senator THURMOND. Gentlemen, there is one question I would like to ask. I think each of you can answer for the record. You are opposed to the Law of the Sea Treaty that establishes a 200-mile economic zone. From the testimony, it sounded as though you are opposed to any controls that might require the distant water fleet, shrimp fleets, or tuna to return to local waters.

The point is, are you opposed to the 200 miles because we are doing it unilaterally, as the Defense Department is? That is your main objection, because doing it unilaterally, you are afraid retaliation will take effect in other fields as well as fishing, or are you in favor of the 200-mile Law of the Sea Treaty which is being worked on now and which the State Department says they will have worked out in about a year?

Mr. UTZ. I would like to try to answer that for the shrimp industry.

The approach that the State Department is taking to the Law of the Sea Conference as far as protecting the distant water shrimp fleet, is the one that is most critical in balance in that negotiation.

What they are attempting to do is work out in the end result an economic zone and understanding of maximum utilization of the resources of coastal states waters so. It would apply this way. The coastal state can fish those resources to the extent of its ability. The difference between its ability and the maximum sustainable yield, which is a scientific term, as to how many fish can be caught and still replenish, that difference would be available for international fishing efforts, so that distant water fleets could continue to fish in areas of Brazil and so forth, and as the Brazilian fleet increased its catch capability we, of course, would have to diminish our catch effort. But this would be done hopefully over a very extended period of time so that we could very easily adjust to this.

Senator THURMOND. Do you favor the Law of the Sea Treaty the State Department is working on now?

Mr. UTZ. Yes, sir.

Senator THURMOND. You would favor that?

Mr. UTZ. We would favor it provided——

Senator THURMOND. That carries 200 miles the same as is proposed here, except here it is proposed to do it unilaterally and not wait and get the concurrence of other nations of the world.

Mr. UTZ. We are in support of the State Department efforts provided they can secure for us the specific rights and duties that they are undertaking at this time. If they cannot secure those rights and duties to protect us, we would not support them.

The CHAIRMAN. Gentlemen, I just have a couple of questions here.

As I understand it now, you say that tuna, shrimp, and the salmon constitute 50 percent of the landed value, I believe.

Mr. FELANDO. A little better than 50 percent of the landed value, Senator.

In 1973, the total value of fish landed in the United States by U.S. fishermen was about $920 million. Salmon was about $125, tuna was a little better than $135, and shrimp was about $241. It comes up to a little better than 50 percent.

The CHAIRMAN. All right.

Mr. FELANDO. Ninety-one percent of our tuna is caught away from the shores of the United States. That is where that figure came from.

Excuse me. The other figure, the 90 percent, represented the value of the canned product, and when you include shrimp, tuna, and salmon there, then you are talking about 90 percent of the canned fish value to the processors.

The CHAIRMAN. Canned fish value. It is those three?

Mr. FELANDO. That is right.

The CHAIRMAN. I am surprised at that.

I am going to pass now to Senator McIntyre.

Senator, you know these four gentlemen, you were here when they testified.

Senator MCINTYRE. Thank you, Mr. Chairman. I would just like to ask a few questions.

It seemed to me the testimony of Mr. Felando, representing the Tunaboat Association, continually talked in terms of what you might say if you were talking to our friends in the Caribbean and Latin America, that this is a territorial effort of the United States to exclude, that this is not what we contend this bill would do, and that is to bring good, sound conservation practices to that 200-mile coastal area.

You completely talk as if what we intended to do here is exclude and to extend our territorial boundaries 200 miles, and that is not the purpose of this legislation.

Let me read to you, specifically it says on page 9, line 23, under policy, "it is further declared that the policy of the Congress in this act is to authorize no impediment to or inference with the legal status of the high seas except with respect to fishing to the extent necessary to implement this act."

In all of your testimony you talk as if we were going to say we are going to bring our gunboats down and shoot you up—this is USA territory. And this is not the purpose of this thing, this is an interim act and this whole bill is couched in emergency terms.

Mr. FELANDO. With all due respect, you sound like some of my Latin American friends, but the fact is that the character of the claim suddenly changes.

The CHAIRMAN. You mean his argument sounded like that?

Mr. FELANDO. Yes, sir.

Thank you, Senator.

The fact is that when going back to other actions taken by the United States, what the United States says is not necessarily followed by other countries. Other countries will decide what they want to claim.

The underlying feature of this bill is that it represents unilateral action by the United States to claim jurisdiction or control or enforcement authority beyond 12 miles.

Now, when you talk about a management program in itself, it seems to me that you have to talk a management program for all U.S. fisheries, and we think that in order to do this properly you have to seek cooperation from all countries and that the best approach is through a multilateral one, the one that we are trying to seek, trying to obtain at the present time.

You can say what the United States intends, but what we are concerned about in tuna is the fact that the reaction of other countries is quite different.

Suddenly fishing claims change into territorial sea claims and I think that is well-documented.

Senator MCINTYRE. I understand some of you witnesses represent distant shrimp fishing. This I interpret to mean that your boats go out and fish for shrimp on distant foreign shores; is that correct?

Mr. UTZ. Yes, sir.

Senator MCINTYRE. So I take it that the argument here that you are afraid of it is that you are now able to fish as you please off those shores.

I am not a student of conservation of shrimp, but I suspect there are some practices that are good for the shrimp future and bad. So what you are saying is that if we pass this sort of a bill and move in this direction, that some foreign country is going to step on your toes by requiring you to do things that should be good conservation practices for shrimp fishing; you do not want any regulation of that because it may interfere with your chasing the almighty dollar now. Is that not true?

Mr. UTZ. No, sir, not quite.

We presently are involved in a conservation agreement off Brazilian waters. In working with Mexico, Texas shrimp fleet and Florida shrimp fleet depend a great deal on international waters off Mexico. Mexican boats to some degree come into the Texas Gulf. We see nothing wrong with conservation practices as far as shrimp is concerned. In fact, they are practiced extensively throughout the Gulf. In fact, I believe that the shrimp industry has a very good record of extensive efforts in conserving shrimp.

There is one difficulty. That difficulty is, there is very little known about shrimp in certain respects.

We have both size standards and very stringent time requirements as to when people can shrimp and when they cannot and when they are not permitted, and this is carried on throughout the gulf. That is one

reason that we think we have been as successful as we have been in this industry, because we do manage the industry as best we can.

We have no regrets or concerns to see an international effort to conserve shrimp and conservation standards applied, I think it would be to everybody's benefit to have that. Our chief concern is a total kickout. Mexico says that they want 1,800 shrimp boats out. It is not a question of under what conditions we would be permitted to come in there. We just would not be permitted to come in there. That is all. We cannot survive.

The only alternative we would have under those conditions would be for the entire fleet to come into the gulf domestic shrimping ground.

Senator McINTYRE. They are going to come anyway, are they not, as soon as they use up their shrimp they are going to come into your area?

Mr. UTZ. We are not using up——

Senator McINTYRE. They are practicing good conservation with their shrimp?

Mr. UTZ. To some degree; not what I would call good conservation with this shrimp.

Senator McINTYRE. You say you practice good conservation.

Mr. UTZ. We try.

Senator McINTYRE. You had better practice it or you will have no shrimp.

Up in the Northeast, Senator Stevens of Alaska was telling us about some of this exploitation that is going on by foreign nations; we do not have any more, the haddock is gone. The cod is gone; the hake is gone. I cannot remember all those fancy names. They have gone.

Let me ask you this: You four people are here. One I understand is a researcher and we are proud of that because we do an awful lot of research in defense, do we not, Mr. Chairman?

You say you represent better than 50 percent of the landed value of the fishing industry in America. Is that right?

Mr. UTZ. Yes, sir.

Senator McINTYRE. Let me ask you this. You are here for salmon, tuna, and shrimp. What percentage of the labor force involved in that salmon, tuna, and shrimp do you four people represent?

Mr. FELANDO. What percentage of what?

Senator McINTYRE. The labor force, the people that work at it.

Mr. CARRY. May I answer that on behalf of the tuna industry?

Senator McINTYRE. You are a researcher and I suspect you could probably claim 100 percent.

Mr. CARRY. No, sir, I am not a researcher. I will not claim to be a researcher. That is the name of my organization.

However, the answer is, the unions in our industry, and we are 100 percent organized in our industry, our fishermen——

Senator McINTYRE. What industry is that?

Mr. CARRY. They are all in opposition to this legislation too.

Senator McINTYRE. We had Senator Magnuson here the other day and he told us people will be in to talk about how they are against tuna. Let me tell you, Mr. Chairman and members of the committee,

they do not represent the full body either, even half of the tuna industry.

I am paraphrasing what Senator Magnuson said. I got the impression there were other tuna people not of the same frame of mind that you are.

Mr. FELANDO. I would like to answer that.

Senator MCINTYRE. Make it short.

Mr. FELANDO. No. 1, I have fished. Our family has been involved in the fishing, tuna business all our lives.

No. 2, Senator Magnuson made the remark that the Russians are fishing tuna off California. How ridiculous can that be? That is not true.

Let's talk about the fishermen, the tuna fishermen I am familiar with. I do not know of one tuna fisherman that does not recognize that when we leave San Diego we are going south, if it is 200 miles, my friend, we are in trouble.

Let's talk about so-called access. Let's take Mexico. They claim a 12-mile territorial sea. Now, in order to fish within Mexico, you have to buy a license. Incidentally, there is no license to fish for shrimp because they are owned by the cooperatives.

As a condition to purchasing a tuna license from Mexico, 50 percent of the employees must be Mexican citizens. That is a condition to fish within 12 miles.

I do not know where the information is that Senator Magnuson talks about, but I can tell you this: That the tuna industry recognizes it would be a disaster if 200 miles goes out. It would be a disaster.

Senator MCINTYRE. Let me say the halibut industry and the former haddock industry already says the present system is a disaster and it is a known fact. You are still fishing for tuna, are you not?

Mr. FELANDO. I would like to answer one question.

The problem I have with my constituents, in 1972, the landed value of cash in Alaska was approximately $80 million. In 1973, the landed value of cash in Alaska was $162 million.

In 1973, the total landings in the United States by fishermen were up over 1972. The total value of landings in the United States by fishermen was up over $200 million, in 1973 from 1972.

Senator, with all due respect, we have some difficulty with these figures when we hear people say that they are in trouble. We know that some fisheries are in trouble, but we feel there are other alternative approaches than this suggestion of S. 1988.

We think that this is the approach that should be used: When there are some conservation problems with some difficulties with treaties with bilaterals, then I think this is the way that those problems should be attacked, but not on legislation that completely divides, that provides jeopardy for many segments of the fishing industry, important segments, and I think this is the way that Congress should approach this type of relief for the fishing industry, not the one that is, in my opinion, highly discriminatory and that unfortunately leads to confrontation between yourself and myself.

Senator MCINTYRE. We have these confrontations all the time.

I want to ask, do you, Mr. Utz, represent the United States at this Law of the Sea Conference?

Mr. UTZ. For the shrimp industry, yes.

Senator MCINTYRE. You are here in opposition to this bill?

Mr. UTZ. Yes, sir.

Senator MCINTYRE. Do you not recognize that this bill is the announced position of the United States?

Mr. UTZ. No, sir.

Senator MCINTYRE. Toward this whole problem?

Mr. UTZ, No, sir.

Senator MCINTYRE. This is very substantially the policy of the United States.

Mr. UTZ. This bill is not. Some of the provisions within the bill might be, but I distinguish between the bill and what is provided in it.

Senator MCINTYRE. Personally, I would think if you were representing the shrimp industry down there, you are probably not working too hard to get any sort of a treaty because you really do not want this regulation.

Mr. UTZ. To the contrary, Senator; I think many of the people that are providing you with this type questioning and this type of information have been selling this legislation really under a false flag.

We have endeavored to find out how some people from areas that would be harmed by this legislation have come up in favor of this legislation. We made questions and put questions to some of these people as to how they happened to take that position and the question initially put to them was, would you be in favor of legislation that would totally prohibit any foreign fishermen entering within 200 miles of the United States. They said yes, that sounds like a good idea.

Let's examine that idea. People have contended the Cuban fishing fleet is going to put the American shrimp industry out of business. I believe the last information given me by the National Marine Fishery Service was that last year they cited something like eight Cuban vessels in all of the gulf.

In addition to that, there has been a contract between Cuba and Peru to purchase something like 98 shrimp boats. That contract is more than 1 year old, and I was advised this summer by the Cubans in Caracas that they have yet to receive one shrimp boat, in fact they were making exploratory comments as to, if relations between our countries would normalize, whether they might buy some boats in the United States.

I have made inquiries throughout the Gulf of various and sundry fishermen who have fished for shrimp in proximity to Cuban vessels. They are not nearly as concerned about any substantial influx of Cuban vessels as they are about our own vessels being forced back into the gulf from the international waters where they presently operate.

That would have a devastating impact, to the point that Mr. Felando raised earlier and I also touched on, it is of extreme concern to me to see legislation such as this and a segment of our industry which supports it putting our representatives in a position of deciding as to whether they vote for legislation that would damage one segment and might possibly help another segment of our industry.

I think we would be much better off if we could examine this question and see if there is not some alternative approach such as, I believe it is S. 3783, that has been introduced into the Senate, some alterna-

tive measures that we could take toward conserving the Northeastern and Northwestern fisheries.

I recognize they have a problem. I do not recognize that that problem totally came about at the hands of the Russians and Japanese and so forth. I think some of these problems were of their own doing. But I did not say that in terms we should not help them, I think we should, but I think the industry should pull together to help each other, rather than sit here and fight among ourselves, and I think this bill does nothing but divide the fishing industry as a whole and certainly would not help the shrimp industry.

Senator McIntyre. Just for the record, and you will have full opportunity to refute this with facts and figures by statement in the record prior to the closing date: It is my understanding, I am informed that you gentlemen testifying here today against this bill represent about 2 percent of the labor force involved in the fishing industry and about 20 percent of the dollar investment involved in the fishing industry, and, as you say, the salmon, tuna, and shrimp industry does represent slightly over 50 percent of the landed value. I do have information that the Western fishboat owners, coastal tuna, 600 tuna boats, fish in Mexico under license, and the Senate record already has testimony they favor S. 1988, some tuna boat people favor S. 1988. Better get to see them and tell them your horror stories.

Mr. Utz. Could I quickly answer one part of the question, though I can give more detailed information.

First off, I am not sure where those figures came from, but I represent, among others in the National Shrimp Congress is the American Shrimpboat Association, which is the organization that represents the entire distant water shrimping fleet. That industry produced 25 to 26 percent—they produced an amount of shrimp brought into the United States in 1973 that was equivalent to 25 to 26 percent of the entire shrimp catch in the gulf.

As far as representing a labor force, there is a question.

How many people in New Hampshire do you represent? Do you determine by the number of people that voted for you——

The Chairman. Pardon me a minute, gentlemen. We do not have time for all of this. Time is very short.

Senator McIntyre. He will have ample opportunity. I am talking about the fishing industry and I am told you represent about 2 percent of the labor force and 2 percent of the investment. You can put all of the testimony you want in the record showing I am wrong, and I am perfectly willing to be refuted.

One last question. You are talking about the treaty. We have had testimony here from two fine Senators who went down there and took a look at the thing and we asked them, when do you think we will get a Law of the Sea Agreement?

At the best, if we are lucky, it looks like 1976, 1977. We in the fishing industry in the Northeast, and I anticipate from Alaska, we are hurting beyond any hurt that you people have had in your industry.

Thank you very much, Mr. Chairman.

The Chairman. Thank you very much.

Senator Nunn?

Senator NUNN. Just one question, Mr. Chairman.

Mr. Utz, do you represent shrimpers on the Atlantic or just on the Pacific?

Mr. UTZ. Through the Southern Fishery Association we also represent Atlantic shrimpers.

Senator NUNN. You represent shrimpers off of the coast of Georgia?

Mr. UTZ. Yes, sir.

Senator NUNN. They are part of your organization?

Mr. UTZ. They are part. The National Shrimp Congress is composed of basically four organizations: Texas Shrimp Association, Louisiana Shrimp Association, Southern Fisheries Association, and Florida Shrimp Association.

The Southern Fisheries Association has among its membership the South Carolina Shrimp Association and a group of Georgia shrimpers.

Senator NUNN. Are the Georgia shrimp operators in any other shrimp organization?

Mr. UTZ. I could not answer that.

Senator NUNN. Is there another shrimp organization nationally other than yours?

Mr. UTZ. No, sir.

Senator NUNN. Are shrimpers in Georgia opposed to this bill?

Mr. UTZ. Not to my knowledge. I have not received any information from them.

Senator NUNN. One way or the other?

Mr. UTZ. Not from them.

I have received all of my information from the Southern Fisheries Association, which represents people in that area.

Senator NUNN. But the organization that represents the Georgia shrimpers are opposed to this bill?

Mr. UTZ. It has not come to my attention.

Senator NUNN. I thought you were representing that organization.

Mr. UTZ. I am. Every piece of information that has come to me has been through the Southern Fisheries Association.

Senator NUNN. Is the Southern Fisheries opposed to this legislation?

Mr. UTZ. Yes; they are.

Senator NUNN. And Southern Fisheries Association represents the Georgia Shrimpers and South Carolina Shrimpers?

Mr. UTZ. That is correct.

enator NUNN. So you are speaking for that organization?

Mr. UTZ. Yes, sir.

Senator NUNN. In opposition to the bill?

Mr. UTZ. Yes, sir.

Senator NUNN. That is all the questions I have.

The CHAIRMAN. Thank you.

Gentlemen, is there anything else either of you want to say?

We want to thank all of you.

Mr. UTZ. I would like to make an apology to the Senator from New Hampshire. I think maybe my question was misinterpreted. Where I was drawing a conclusion was, I represent the people that are members of these organizations and sometimes you have many people that do not participate in organizations, period. So I cannot say how many people there are that do not belong to these organizations.

The CHAIRMAN. I know that. I do not think the Senator took any offense. He is not quick to take offense. He is a good courtroom lawyer and you were not offensive.

Anything else you want to say? You are credible witnesses and we appreciate very much your coming here.

Thank you very much.

We are going to have others now. You do not have to leave.

I am sorry that things have filled up, I am going to have to leave, but Senator McIntyre is here and he is going to stay. We will now hear from Mr. Christopher M. Weld, who represents the National Coalition of Marine Conservation, and Mr. Robert Walker, representing Save Our Seas. Senator McIntyre is in charge.

I want to thank all of you for coming, and Senator McIntyre will conclude the hearings and I thank him, too.

We will both go vote now. You will be first up when we get back.

Senator MCINTYRE. We have as our next witness Mr. Christopher M. Weld, representing the National Coalition of Marine Conservation.

Mr. Weld, in view of the time constraints, any time you can save us in the presentation of your case—your statement in its entirety will appear in the record and perhaps you can state the case as succinctly as possible, but we will give you full opportunity to make your points.

STATEMENT OF CHRISTOPHER M. WELD, REPRESENTING THE NATIONAL COALITION OF MARINE CONSERVATION, INC.

Mr. WELD. Senator McIntyre, I am happy to take advantage of the Chairman's invitation to submit the written testimony to be included in the record and to discuss the highlights of it and to submit to any questions you might want to put to me.

The National Coalition for Marine Conservation is essentially an organization representing recreational fishing interests and conservationists, and to a lesser extent the costal fishing industry.

Our basic premise is that the coastal fisheries are a national asset and a strategic resource, having substantial economic importance, and that two major industries depend on the well-being of these coastal fisheries: that is the coastal fishery industry and the marine fishing recreation industry.

We have testified before other committees of the Senate as to the importance of the resource and the importance of conserving the resource and what we intend to address ourselves to before this committee is some of the remarks made by General Brown and John Morton Moore on Tuesday, October 8.

If there is a single thread that seems to wind through the position of most of the opposition to S. 1988, it is the concept that by acting unilaterally the U.S. sets a precedent that will lead to a form of creeping jurisdiction around the world, that in turn will inhibit our strategic ability to defend ourselves.

The history of the 12-mile limit amply demonstrates that regardless of when we act or how we act the nations of the world that intend to adopt 200-mile limits will go ahead and do so.

That the 1958-60 Geneva Conventions demonstrated to the world community that there was a climate of acceptance for a 12-mile juris-

dictional limit and, following the conclusion of those Conventions a great number of nations adopted 12-mile limits.

In 1966, after some 32 or 33 or 34 nations had in fact adopted a 12-mile limit, the Departments of State and Defense withdrew their opposition to the adoption of the 12-mile limit by this country.

In October 1966, the Congress acted and established the 12-mile limit. We were among the last nations to adopt the 12-mile limit.

In this year, in Caracas, it was demonstrated there was a climate of acceptance for the 200-mile limit. It is clearly the trend; it is going to happen.

Senator McIntyre. Let me interrupt you to ask you, how do you come to the conclusion that a climate of acceptance of the 12-mile limit was demonstrated?

Mr. Weld. I think that in remarks made first by independent reporters covering the convention and also by Mr. Stevenson, Mr. Moore, others in the U.S. delegation, made clear that more than 100 nations had expressed approval of the 200-mile jurisdictional concept in some form, whether in terms of an economic zone or in terms of total jurisdiction.

Senator McIntyre. One of the objections that does fall on some pretty solid ground is that if we attempt to exercise a 200-mile exclusionary jurisdictional limit we will then in fact get ourselves into some very serious problems. If we are bent on conservation, and we attempt to put into coastal management, and good conservational practices, some number of these things are being done by foreign ships, and perhaps even by our own fishermen, are prevented, then we will be aiding and abetting the great sea which looms as a very important producer of food in the year and years and centuries and decades ahead.

Mr. Weld. Yes, sir, we are of the opinion that conservation of our own coastal fisheries is for the good of the entire world. I do not think anywhere in S. 1988 it is implied that the intention is to exclude any other nation from fishing within our 200-mile limit. I think the language is clear that the intent of the legislation is to manage and to conserve the resource. Without control of the resource, there is no possible way of conserving it.

The dismal record of the failure of management by international agreement is quite plain. I think anybody who studied the record of ICNAF in the Northeast knows that ICNAF machinery has been in existence throughout the history of the decline of the fisheries in the Northeast.

Similarly, the arrangement with the Japanese in the Bering Sea, where there have been treaty arrangements since before World War II, which supposedly regulateed the halibut fishing there, and year by year we have watched the diminution of the halibut catch up there.

Mr. Felando and others like to point with pride to the record of the Inter-American Tropical Tuna Convention. So far as I know, the tuna populations in the Pacific and elsewhere have not prospered under the regime of the Inter-American Tropical Tuna Convention.

I think the reason that all of these various arrangements have been unsuccessful to date is that they do not have control over the resource. There is no authority to enforce the convention regulations.

General Brown in his remarks to the committee on October 8, 1974 went into great length to describe the Defense Department opinion that universal 200-mile limits would have a very deleterious effect on our nuclear deterrent, our second strike capability represented by nuclear missile submarines.

There was recently published an article by Dr. Robert E. Osgood, who is dean of the Johns Hopkins School of Advanced International Studies, entitled "U.S. Security Interests in Ocean Law." It was published in Ocean Development, and International Law Journal of Marine Affairs, Volume 2, No. 1. Dr. Osgood addressed himself specifically to this argument and came, after very thoughtful analysis to the conclusion that all of the Soviet Union could be targeted from the Atlantic Ocean, Pacific Ocean, and the Arabian Sea without having to use any of these straits the Defense Department fears may be closed by extensions of jurisdiction.

We do not think that in considering the validity of the Defense Department contentions one should be bound by the horizons which they impose on your thinking.

When you come down to the practicalities of the mobility of our defense forces, there is really only one nation in the world that can seriously challenge the movement of either our air or ocean forces, and it is also unlikely that in a time of military emergency the niceties of ocean boundaries will be observed by our military forces.

I do not think that when Teddy Roosevelt went up San Juan Hill he looked for no trespassing signs, and I think it is the sort of argument that is being propounded by the Defense Department.

Finally, several of the offshore fishing industry spokesmen who were here today, referred to the defect in S. 1988, that the legislation contained no management scheme, therefore, it was really an empty gesture.

That may be true of the House bill but not S. 1988. In any event there is legislation pending before the Congress that will empower the Secretary of Commerce to promulgate fishery management regulations within the contiguous fishery zone, and at such time as we do adopt a 200-mile fishery zone it would simply be a matter of clarifying this pending legislation as to what zone it refers to.

I think that is about all I have to say this morning.

Senator McINTYRE. The next witness represents the Save Our Seas.

How would you contrast your association's position with his? You are both conservationists, yet he is going to testify in opposition and you are testifying for it. Is it because he is commercially bent and you are more recreational, or what?

Mr. WELD. No, sir. I am not particularly familiar with Mr. Levering's reasoning but I suspect we are more pragmatically oriented than he is.

Senator McINTYRE. We are going to hear it so you will not have to answer it.

Mr. WELD. I am not qualified to speak about it.

Senator McINTYRE. Let me ask you this question. In what specific ways will this legislation promote fishery conservation? How soon can this legislation be expected to have a significant impact on fishery conservation and how effective do you expect the enforcement of any conservation measures to be under this S. 1988?

Mr. WELD. I would think that as soon as it became effective it would be possible to promulgate and enforce a management regime. I think the history of adoption of the 200-mile limit by other nations indicates that these limits are respected by the distant water fishing nations.

When Iceland adopted its 50-mile limit that extended toward the Continental Shelf, the Soviet bloc nations withdrew from Icelandic fishing immediately and the confrontation was only between the Icelandics and the British, as I understand it, with maybe some minor incidents involving the West Germans.

I think that the logic and the necessity of management is so clear that it will be quickly respected by other nations. Whether or not it contributes to international tensions, as claimed by the State Department, is purely conjectural. I think the record, from conversations with the Coast Guard officers who have been in charge of boarding inspection in the ICNAF area, for example, the remarks made to them by captains of the Soviet fishing fleet, would lead you to believe that will be the first to respect a 200-mile limit. I think they understand that conservation of the resource is for the good of the world, for everybody's good. Nobody profits by having the fish go out of existence.

Senator McINTYRE. In view of our time situation, we will have the staff submit to you further questions for the record, and I express my appreciation for your patience here this morning in waiting so long to testify.

Thank you very much.

Mr. WELD. Thank you, Senator.

[Prepared statement follows:]

My name is Christopher M. Weld and I am Secretary of the National Coalition for Marine Conservation. I have asked the general counsel to put into the record of this hearing a paper submitted by Dr. Frank E. Carlton of Savannah, Georgia, the President of the National Coalition. Dr. Carlton's paper is partly based on an article by Dr. Robert E. Osgood, Dean of Johns Hopkins School of Advanced International Studies, entitled "U.S. Security Interests in Ocean Law" which was published in Ocean Development and International Law, The Journal of Marine Affairs, Vol. 2, No. 1 and an article by David C. Loring entitled "The United States-Peruvian Fisheries Dispute" which was published in the February 1971 issue of the Stanford Law Review. I can recommend both of these articles as informative, perceptive and germane to the issues under consideration by this Committee. Dr. Carlton's paper states:

"Defense Department officials have stated that United States security requires free transit through straits and the right of military overflight. It must be pointed out that the distinction is not between the terms 'free' and 'innocent' in so far as strategic consideration is concerned. In reality the relevant comparison must be between 'free' and 'secret'. Defense contends that the invulnerability of American missile-launching submarines and their indispensable role to our defense depends on their legal right to secret passage.

"Dr. Osgood's scholarly examination of the 121 straits listed by the Department of State that would be nationalized by a 12 mile territorial sea demonstrates that there are only 16 that could have importance and that 9 of those are either non-essential or fall within the territory of our military allies. Of the remaining 7, all but 3 either offer no significant targeting advantage or are too shallow or dangerous to approach submerged. Dr. Osgood's analysis reveals that only Gibralter and two Indonesian straits are strategically significant areas which

might be politically questionable if a 12 mile territorial boundary were established. For the purposes of the nuclear deterrent the entire Soviet Union can be targeted from the Atlantic and Pacific oceans and the Arabian Sea. Dr. Osgood's studies clearly demonstrate that the physical and political necessity of free transit through international straits is not supported by objective information and should certainly not be considered a non-negotiable item inhibiting international agreement on ocean use.

"Furthermore, it should be pointed out that logic as well as experience indicates that the concept of innocent passage is actually related to commercial vessels. If there is any real question that the passage of a warship is not innocent, one must wonder why any nation would sign a treaty permitting unimpeded passage, or conversely, how such an agreement would deter any nation from 'necessary' military action against such passage? Obviously, strategic significance is related to the capacity to place missile-launching submarines in secret position, which Dr. Osgood's analysis demonstrates does not depend physically or certainly legally upon free 'transit'.

"Attitudes underlying the position of the Departments of State and Defense, which now indicate the opposition to extend jurisdictions manifest that same rigidity whch has characterized United States performance in internatonal relationships for the last 25 years and which have materially contributed to the difficulties the United States faces today. The 200 mile issue, itself, is an excellent example of the United States steadfast opposition to a concept and physical reality that will shortly become the accepted world norm. The Defense Department's archaic and illusory attitudes toward the necessity of maximum mobility to maintain our defensive security and the Department of State's insistence upon underrating the importance of harmony with less developed coastal nations, has supplied further impetus toward the total problem of the United State's decline in its capacity to maintain a global posture as an economic and political force and its acceptance by other nations as a world leader.

"The traditional attitudes and methods that created the Peruvian fisheries dispute remain very much in affect to this date. In discussing the Peruvian fisheries issue. David Loring states, 'The background for growth of the dispute . . . can be attributed largely to a series of mistakes by the United States'. In asking the Senate Arms Services Committee not to support the position of the Department of Defense and State, we recognize the catacylsmic disruption with historical precedents such an event would require.

"The National Advisory Committee on Oceans and Atmospheres third Annual Report dated June 28, 1974 stated in its foreword, 'This year, NACOAA worked with the consciousness that our society may well be on the threshold of *major discontinuity in human history*—from a world in which natural resources such as food and energy, and . . . the regenerative capacity . . . seemed to exceed effective demands, we appear to be moving toward a state of affairs in which consumption and utilization of vital resources are generating new stresses and strains at home and abroad. To contain the resulting instabilities we must respond to unprecedented demands on our capacities to manage natural resources'.

"It is my respectful contention that these considerations are more vital to our national interests than those unsupported allegations made by the Department of State and Defense and do not, in fact, jeopardize either our international relations or our strategic defense. To the contrary, the Congress should recognize that the continued threat of passage of S–1988 has been one of the more positive and constructive forces impinging upon international negotiations on ocean use. It must remain for the Congress to forcefully counteract a long tradition of policy and practices which have demonstratively worsened domestic and international problems. Only the Congress itself can bring the necessary forces to bear and insure the necessary changes. I earnestly entreat the Committee's consideration of these alternatives.

"The 200 mile limit controversy has its origins in Presidential Proclamation No. 2668 entitled 'Policy of the United States with Respect to Coastal Fisheries in Certain Areas of the High Seas'. In this proclamation President Truman articulated a policy supporting the extension of fisheries jurisdiction by coastal nations. Beginning with Mexico in 1945 and followed shortly by Argentina and Chile, a number of Latin American nations relying upon the Truman proclamation claimed fisheries jurisdiction and in some cases total sovereignty to a distance of 200 miles.

"In 1945 no United States fishing interests existed in the area affected by the Mexican proclamation. When other nations jumped onto the 200 mile limit bandwagon, however, representatives of the California tuna industry served notice on the State Department that they expected to expand operations into Latin American waters in the future. Thereupon the United States reverted to the three-mile rule, declaring it to be in the best interests of all nations.

"The looming confrontation between coastal nations asserting the right to protect contiguous fisheries and overseas fishing nations determined to exploit those fisheries led to the 1958 and 1960 Law of the Seas Conferences. Whatever else these conferences may have accomplished, they demonstrated a growing international acceptance of the concept of extended fisheries jurisdiction at least to a distance of 12-miles from shore. By the middle of 1966 at least 32 nations claimed 12-mile fisheries jurisdiction. At this point the State Department and the Defense Department withdrew their opposition to the demands of coastal fishermen, and in October 1966 Congress adopted a 9-mile extended fisheries zone beyond the territorial sea.

"By the beginning of 1973 at least 16 nations had established territorial or fisheries jurisdiction limits of 50 miles or more. Once again a Law of the Seas Conference was convened, this time in Caracas. Once again it was not at all clear what was accomplished at this conference; however, it was evident that there was widespread acceptance of the 200 mile limit in the international community. Nevertheless, the State Department and the Defense Department continue to oppose adoption of a 200 mile extended fisheries zone on the grounds that it will be used as justification by other nations claiming sovereignty to a distance of 200 miles thereby seriously jeopardizing our defense capabilities.

"This contention totally ignores the history of the evolution of the 12-mile limit. The United States was one of the last nations to adopt a 12-mile limit. The demonstrated reluctance on the part of the United States to go along with the 12-mile limit had little or no effect upon the decisions of other nations desiring a 12-mile limit once the spirit of acquiesance was demonstrated by the 1958 and 1960 Geneva Conventions.

"Whether or not the United States adopts a 200 mile limit in 1974 or 1975 and even if it never adopts a 200 mile limit, the nations that intend to do so will do so, because they learned at Caracas that the rest of the world is ready to live with the 200 mile limit.

"The survival of our coastal commercial fishing industry and marine recreational fishery industry is contingent upon the ability of our coastal marine resources to renew themselves. Continuous overfishing in the last decade has reduced the abundance of many species of coastal fishes to the point where their ability to renew themselves is impaired.

"Existing international arrangements for the management of coastal fisheries have been a dismal failure. Without control of the resource there can be no effective management of the resource and without jurisdiction there is no control. This principle is well understood by the major fishing nations and is one of several good reasons why none of these nations is likely to provide a confrontation in connection with the enforcement of a rational management regime.

"Reasonable men might differ as to whether enactment of 200 mile limit legislation will strengthen or weaken the bargaining position of our delegation to the Law of the Seas Conference. Similarly the degree of international tension that may be generated by the enactment of this legislation is speculative. The destructability of our coastal marine resources, on the hand, is a matter of fact. The question before the Senate is one which balances the possible destruction of a natural resource having substantial long term economic and strategic value against international political considerations having uncertain and unmeasurable potential.

"If a majority of the Senate is convinced that the probabilities propounded by the State Department are meritorious—meaning that (i) adoption of a 200 mile limit at this time will probably have a disadvantageous effect upon international relations generally and upon the outcome of the Law of the Seas Conference specifically and (ii) an adequate solution to our fisheries problems will probably be achieved by the Law of the Seas Conference in 1975, then I suggest to this Committee that the correct course of action is to adopt extended fisheries jurisdiction now, effective as of January 1, 1976; because even if our delegation is successful in Geneva next year, implementing legislation will be required and should be

enacted as quickly as possible. Conversely, if our delegation is not successful in 1975, a number of State Department spokesmen have already indicated a willingness to accept unilateral action by the United States on the grounds that if there is no accord in 1975, the possibility of future agreement will become increasingly remote.

"We beg you to weigh the reality of an increasingly impaired national asset against the fabric of baseless promises and predictions, woven by State and Defense Department witnesses who have appeared before this Committee."

Senator McINTYRE. I call as our next witness Mr. Robert Walker, representing the Save Our Seas.

STATEMENT OF ROBERT WALKER, SAVE OUR SEAS, WASHINGTON, D.C.

Mr. WALKER. I am giving Mr. Levering's statement, but he is in North Carolina on what he hopes will be the last day of the apple harvest.

Senator McINTYRE. You have heard my admonition to Mr. Weld. We are beginning to run out of time and so, anyway his statement will appear in the record in its entirety. You can highlight or stress those points that you think are important on this particular bill. We would appreciate it so we can finish up a little after 12:30. So that will give you about 15 or 20 minutes.

Mr. WALKER. We have submitted a statement for the record. I will try to highlight it.

I should explain that Mr. Levering is Secretary of the U.S. Committee for the Oceans. It is an organization of citizens headed by Arthur Goldberg and its concern is the preservation of the resources of the sea.

For that reason, we are very pleased that this committee is holding these hearings to bring into focus the problems involved in this particular resource of the oceans.

The committee believes that the purpose of the bill is excellent, the preservation of fish and the coastal and anadromous fishing industry. We agree with the basic assumptions many coastal and anadromous fish stocks are in danger of being seriously depleted.

We further agree that the authority for conservation of these stocks must be placed in the coastal states and, finally, we concur that the progress of the Law of the Sea Conference is such that even if successful, its results may be too late.

Our problem is that we did not think that the principles involved in S. 1988 will achieve the results that are claimed.

We do not think that the 200-mile unilateral declaration is likely to achieve protection.

The objective of extending our fishing rights is the immediate control of foreign fishermen in the areas enclosed. But who is going to decide just what areas are enclosed?

Senator McINTYRE. Let me ask you, the rules and regulations, of course, would have to be obeyed by our own fishermen, would they not?

Mr. WALKER. Basically.

Senator McINTYRE. I am not that well-versed, but I suspect some of the methods that our own fishermen use are not the best in the eyes of the conservationists.

Mr. WALKER. I think that is correct.

Senator MCINTYRE. We do not seek to regulate although they are raising the devil with us up in the Northeast Coast in New England, we do intend whatever rules will apply to all fishermen in that area.

Mr. WALKER. I think the basic thrust of the measure is exclusion. Certainly there will be regulations and hopefully those will apply to U.S. fishermen also. But it is not clear at all that the same regulations are going to apply to everybody.

This is one of the points that we feel is important.

Senator MCINTYRE. That ought to be amended because I am certain that the implication of this is equal to all.

Mr. WALKER. I think from our reading of the bill that it is highly discriminatory and intended to be such.

But one point is that just what will compose the 200-mile area is something that is going to take a long time to figure out. Many of the banks that are traditionally fished by U.S. fleets now may well be part of Canada's 200 miles and not those of the United States.

Furthermore, we are not at all sure that the 200-mile limit will assure the preservation of the stocks on which U.S. fisheries depend.

The bill applies not only to migratory coastal species that go in and out of the 200 miles, but also is intended to apply to the anadromous species like salmon that come back and spawn within the United States.

The bill attempts to extend U.S. jurisdiction to anadromous fish "wherever they may range in the oceans," but there is no reason to expect that other nations will treat this, which is a huge extension of sovereign jurisdiction, with anything but anger and disregard.

A second major point is that the unilateral declaration would damage major U.S. interests. This has been referred to by many previous witnesses.

We feel that exclusion of foreign fishermen might provoke Soviet and perhaps Japanese withdrawal from the Law of the Seas Conference. That, certainly, even if they continue participating, present U.S. position at the Conference would be substantially weakened.

The provision of the bill by which it would terminate when the Law of the Sea treaty or treaties now being developed regarding fisheries jurisdiction and conversation shall enter into force would not save the situation even if the Conference participants could guess what agreements might qualify under this provision. Its enactment would be a public threat which would only provoke resistance and retaliation.

It will encourage many nations now seeking sovereignty over the straits and passages essential to free navigation by sea and air to make their own unilateral decisions, perhaps on a nonnegotiable basis.

It will of course have questionable benefits to some fishermen who bring in over half of the value of the U.S. catch, as certain industry representatives have mentioned today. That is the distant water fishermen.

Senator MCINTYRE. Say that again now so I understand what you just said.

Mr. WALKER. It will be trading questionable benefits to some fishermen for serious risk to those certain people who in 1972 brought in over half of the value of the U.S. catch.

Senator MCINTYRE. Landed catch, shrimp, tuna, and salmon?

Mr. WALKER. Yes, sir.

With all this, we think that there are other measures available that will be more effective and can be put into effect just as rapidly.

The 1983 Convention on Fishing and Conservation of the Living Resources of the High Seas recognizes in its article 6 the special interests of coastal States in maintaining the productivity of fish stocks in areas adjacent to its territorial waters and in its article 7 provides that after 6 months of negotiation a coastal State may unilaterally declare appropriate conservation measures.

Those measures must reflect the need for conservation, be based on scientific findings, and be nondiscriminatory. Disputes over such action may be referred by any State to a special commission provided for in articles 9 and 10 of the Convention, but the conservation measure remain in effect pending the Commission's decision unless it makes a prima facie finding that there is no need for conservation measures.

In view of the plight of coastal and anadromous fishing stocks, the U.S. Government should at once institute negotiations under article 7 of the Convention and should notify prospective participants that in 6 months it will promulgate specific conservation measures unless satisfactory agreement is reached before that time.

I should add that this alternative proposal has been substantially embodied in S. 3783, presented by Senator Fulbright and currently under consideration by the Foreign Relations Committee.

The U.S. Committee for the Oceans has proposed some amendments to sharpen the effect of this S. 3783, but supports it as a step to achieve the purposes without the risks of S. 1988.

This is substantially our statement.

Senator MCINTYRE. Tell me a little bit about the Law of the Sea Conference, how was that going, were you down at Caracas?

Mr. WALKER. I was not. Mr. Levering was.

Senator MCINTYRE. Was he down there?

Mr. WALKER. Yes, sir.

Senator MCINTYRE. Did he come back hopeful or dismal or neutral?

Mr. WALKER. I think reasonably hopeful. He had said before he went that the very scheduling of a followup conference in Geneva meant that final agreements were not going to be reached in Caracas, that everyone would hold on to their positions as firmly as they possibly could up until the very last minute.

I believe he considers that they ironed out some details and got some general agreements in Caracas, but that all of them hang on related agreements and many different areas under consideration.

Senator MCINTYRE. One of the participants at that, maybe he was not a participant, maybe an observer, stated to the committee here a day or so ago that all that was achieved there was an outline of the parameters of the differences that existed between the various participants in the problems not only of the seabed and pollution, but fisheries themselves.

Did Mr. Levering indicate to you or are you hopeful that in the Geneva Conference we can get a meaningful agreement, meaningful treaty signed, and move to really have a law of the sea that is agreeable all around?

Mr. WALKER. Yes, I think we are very hopeful. It is a tremendously complicated conference and a tremendous number of issues.

Senator McIntyre. I certainly hope you are right because I think that even this bill envisages it is an interim sort of operation; once the law of the sea was agreed upon this would be discarded.

Mr. Walker. It is, yes, sir. I feel two things on that.

First, I do think that it is sort of a gun to the head to the other negotiators and that they will react that way.

Second, it is not really clear from the language of that what kind of agreements the Law of the Sea Conference would qualify as cutting off the effect of this.

Senator McIntyre. I suppose we would consider a meaningful agreement in the eyes of conservationists reasonable conservation.

Our friends, the tunaboat people, get shot at when they go to Peru and the Mexicans get so committed even when they are trying to bring a man in for medical services in the Canal Zone, their boat is seized and they are thrown in prison, according to the testimony here this morning. That is not the sort of thing that we are looking for.

I think that some of the testimony that the experts in fishing give you are, for instance, Senator Stevens, who seems to know a great deal about this, from Alaska, talked about the just reasonable precautions of not fishing during a certain season for a month would do much to help the halibut fish.

Another description, too, that seems to be foolishness, that fishing for fish A, they get fish B that they do not want—that is, this incidental fishing, as they term it—and it represents a substantial portion of the fishing for that. I am talking about halibut.

I hope that you are right, that something will come in Geneva that will be looking down toward good sound practices that will be helpful to our fishing industry, the other half which represents a lot more in my mind than shrimp, tuna, and what is the third one, salmon. I do not like salmon, I like tuna and shrimp; I should not eat them.

But I want to thank you very much for coming here this morning. Sorry we had to keep you waiting so long.

Mr. Walker. All right, sir, I do hope you will look at this S. 3783.

Senator McIntyre. Yes, I will tell my staff to make sure we take a look at S. 3783.

Are there any other witnesses? If there are, there is no existing time. We will be glad to accept their statements and include them in the record here at this point.

[The prepared statements follow:]

I wish to congratulate Senator Stennis, the Chairman, for bringing critical fishing conservation problems into public focus by holding hearings on S. 1988.

The purpose of this bill is excellent—to preserve the fish and the U.S. coastal and anadromous fishing industry. Its basic assumption, that many coastal and anadromous fish stocks are in danger of being seriously depleted and in some cases of elimination, and that present measures to prevent this are inadequate, is true. Its *solution*, that authority to deal with this critical problem must be clearly placed, and that coastal states are best equipped to exercise this authority for coastal species, is generally agreed, and almost certainly will be recognized at the Law of the Sea Conference. *Further*, this bill responds to the need for the U.S. to act *now*, as the Law of the Sea Conference, even if successful, may be *too late*.

Such a step also has the appeal of appearing to be a simple solution to the problems that have seriously injured U.S. coastal fishing interests. In fact, in our judgment, it is not a simple step; it is not likely to solve the problem; and taking it would severely damage other major U.S. interests. The major goals

sought by these bills would be more likely to be achieved by conservation measures taken under the 1958 United Nations Convention on Fishing and Conservation of the Living Resources of the High Seas, which could be put into effect by the U.S. in six months whether or not other nations concur.

THE 200 MILE UNILATERAL DECLARATION IS UNLIKELY TO ACHIEVE PROTECTION

One objective of extending exclusive fishing rights is the immediate control of foreign fishermen in the areas enclosed. But the traditional rules of international law for setting such boundaries were based on much more limited areas. Negotiations with neighboring countries such as Canada, Mexico, Cuba and the Soviet Union will be necessary to settle where the new limits are to be drawn. In the northeast it is certain that they won't include all the banks traditionally fished by the U.S., and in no area can there be certainty where the lines can be drawn—or how soon.

Even when the limits are set, there is no assurance that they will be observed by foreign countries. Enforcement measures will be required. It is doubtful that the U.S. would be well advised to use force to expel ships of major nations. To do so would risk a "cod war" with Russia and would certainly damage other aspects of our relations with the Soviets and Japan.

At the very least these countries would be likely to bring the U.S. before the World Court, where its case would be weak in the face of the many international efforts being taken to deal with fishing problems. U.S. participation in current and prior international negotiations would make ridiculous any attempt to avoid World Court jurisdiction by use of the Connally Reservation.

Finally, even assuming eventual resolution of disputes over area and exclusiveness, many of the stocks on which U.S. coastal fisheries depend will remain unprotected. These include not only the migratory coastal stocks that pay no attention to man-made limits, but also anadromous species like salmon. Though this Bill attempts to extend U.S. jurisdiction to anadromous fish "wherever they may range in the oceans", there is no reason to expect other nations to treat this huge extension of "sovereign jurisdiction" with anything but anger and disregard.

THIS UNILATERAL DECLARATION WOULD DAMAGE MAJOR U.S. INTERESTS

Exclusion of foreign fishermen, or requiring licenses from them might provoke a Soviet, and perhaps Japanese, withdrawal from the Law of the Sea Conference, making its failure attributable to the U.S. Even if all countries continue their participation, the present U.S. position at the Conference would be destroyed in matters of fishing and seriously weakened in others, such as navigation, seabed exploitation, pollution controls and settlement of disputes. This will flow from the loss of bargaining power and the lack of credibility which this unilateral U.S. action would assure.

The provision of this Bill by which it would terminate when "the Law of the Sea Treaty or Treaties now being developed regarding fisheries jurisdiction and conservation shall enter into force" will not save the situation. Even if the Conference participants could guess what agreements might qualify under this provision, its enactment would be a public threat which could only provoke resistance and retaliation.

This bill will encourage the many countries now seeking sovereignty over the straits and passages essential to free navigation by sea and air to make their own unilateral decisions, perhaps on a non-negotiable basis. Even if they remain at the bargaining table on this issue, their stance will be more rigid and their position less assailable, at least by the U.S.

With respect to fishing, the U.S. will be trading questionable benefits to some fishermen for serious risk to those fishermen who in 1972 brought in over half the value of the U.S. catch. Coastal nations exercising controls over shrimp and tuna will be in excellent position to demand stiffer terms. The Russians and Japanese will see less reason to restrain their far ranging fishing fleets. The provisions on anadromous species might provoke the Japanese to consider that the U.S. had abrogated the agreement restricting Japanese salmon fishermen to areas east of 175 west, and certainly would not make them more ready to accept any arrangement less favorable to them.

OTHER IMMEDIATE MEASURES ARE AVAILABLE

The fact that an attempt by the Congress to exclude or control foreigners in a unilaterally extended fishing jurisdiction is unlikely to succeed, and that even the attempt assures foreign retaliation and serious consequences, does not mean that the U.S. Government is helpless to protect coastal and anadromous fish. Nor does it mean that protection must be withheld until the conclusion of the negotiations of the Law of the Sea Conference. There is another way, with a better legal basis, greater chances of conserving the fish and being acceptable to other nations, and less damaging to other vital U.S. interests.

The 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas (adopted 49 to 1, with 18 abstentions) recognizes in its Article 6 the special interest of coastal states in maintaining the productivity of fish stocks in areas adjacent to its territorial waters, and in its Article 7 provides that after six months of negotiations with other concerned nations a coastal state may unilaterally declare appropriate conservation measures.

As indicated in the attached text of Article 7 such measures must reflect a need for conservation, be based on scientific findings, and be non-discriminatory. Disputes over such action may be referred by any state to a special commission provided for in Articles 9 and 10 of the Convention, but the conservation measures remain in effect pending the commission decision unless it makes a *prima facie* finding that no need for the measure exists.

In view of the plight of coastal and anadromous fishing stocks, the U.S. Government should at once institute negotiations under Article 7 of the Convention and notify prospective participants that in six months it will promulgate specific conservation measures unless satisfactory agreement is reached before that time.

The Congress might well pass a bill immediately empowering and requiring the Administration to proceed immediately to implement the 1958 Convention. This is a desirable interim step. If the 200 mile fishing jurisdiction bills should also prove necessary, they could be passed later.

STATEMENT OF SENATOR EDWARD M. KENNEDY FOR THE ARMED SERVICES COMMITTEE ON THE EMERGENCY MARINE PROTECTION ACT OF 1974

I want to thank the distinguished Chairman of the Armed Services Committee for this opportunity to discuss legislation which I have co-sponsored to extend the fishing zone to 200 miles.

There is no more important piece of legislation to the American fishing industry and the future of our fish resources than S. 1988. This Committee will learn from both the opponents and proponents of a 200 mile fishing zone about the dimensions of the marine resources crisis off our coasts. There is virtually unanimous agreement that our fish stocks are in jeopardy. At the same time, it is clear that existing treaty arrangements and enforcement procedures are inadequate to reverse the spiralling decline of these coastal resources.

There is, as well, agreement among members of the House and Senate that effective action to protect our fish stocks in no way be detrimental to our national security interests. And it is to these concerns, as expressed by the Department of Defense and the Chairman of the Joint Chiefs of Staff, that I address my remarks today.

First, this Committee has received testimony that unilateral action to extend the fishing zone will jeopardize the chance for effective agreement at the Law of the Sea Conference. In my view, enactment of this legislation will encourage speedy and effective agreement. The nations represented at the Law of the Sea Conference are aware that S. 1988 is an interim measure specifically designed to pass out of existence as soon as effective international agreement is ratified. And with passage of this legislation they will be aware as well of our very serious intention to preserve our dwindling fish stocks.

The Emergency Marine Fisheries Protection Act of 1974 is not incompatible with international agreement; it will stimulate early and effective agreement. It is not a novel approach to protect fish and marine resources; it is clearly the

consensus of the major fishing nations of the world that the most effective conservation measure is management and regulation of extended fishing zones.

Second, some witnesses before this Committee have suggested that international good will and cooperation will be adversely affected by extension of our fishing zone pending international agreement. Yet fishermen from Massachusetts and other parts of the nation will testify regarding the tension between our domestic fishermen and the fishing fleets of foreign nations, about the incidents of ramming and lost gear, about the endless claims process to establish loss of gear and livelihood. Fishermen from New England will explain the frustration that results from abiding by quota regulations which some foreign nations openly and frequently violate because of lack of enforcement authority.

The extension of our fishing zone is imperative to reestablish friendly relations between our fishermen and those of other nations, to set up equitable and enforceable enforcement procedures, and to assure the preservation of fish stocks while assuring all fishermen with traditional fishing rights a fair share of the fish take.

Extension of the fishing zone is not unilateral action precipitated by only a national interest. It is an invitation to all the fishing nations of the world to join with us in this emergency conservation measure to guarantee that in the future we will all have fish to share.

The third and most disturbing argument made during recent testimony is that U.S. action in extending the fishing zone will result in claims by some foreign nations to 200 mile territorial limits which will affect our military and naval mobility. I believe this argument is extreme. S. 1988 extends our fishing zone only. What evidence is there that in response to this emergency conservation measure, foreign nations will extend territorial limits? S. 1988 does not exclude foreign fishermen from our coastal fisheries. What evidence is there to suggest that retaliation rather than cooperation will be the reaction of other fishing nations? S. 1988 does not interfere with commerce, navigation, or innocent passage. What evidence is there to suggest that, in response to a conservation measure, other nations which value and will continue to benefit from commercial activity and navigation rights in waters off the coast of the United States will jeopardize those efforts?

Mr. Chairman, we all agree that the best way to protect the fish resources of the oceans for the future is through effective international agreement. But it is also the longest and most difficult process of agreement. S. 1988 simply recognizes that, until such an agreement, emergency, interim measures must be implemented to prevent the destruction of much of our remaining fish stocks.

I am hopeful that the the Armed Services Committee will require (before completing its report on the Emergency Maine Fisheries Protection Act of 1974) that any claims of retalitory steps by foreign nations in response to this conservation measure be substantiated. I hope that this Committee will require more than vague and unverified comments regarding closing of military operating areas by nations which do not fish off our coasts and which have much to lose by interfering with commerce or navigation.

Mr. Chairman, in testimony before this committee the Chairman of the Joint Chiefs of Staff said unequivocally:

The effect of a 200-mile territorial sea extending off the coasts of many nations in the world would be devastating to military mobility. It would result in the prohibition of overflight by aircraft and submerged operation of submarines except at the sufferance of a coastal state in almost forty percent of what is now internationally recognized as high seas. The entire Mediterranean would be territorial seas of the littoral states and could be closed completely to the United States. Virtually the entire operating area of both the Seventh and Sixth Fleets would become territorial sea. An unconstrained extension to even 12 miles would close the straits of Bab El Mandeb, Dover, Gibralter, Hormuz, and Lombok. Virtually every passage now narrow enough to be called a strait would be closed by 200 miles.

I am hopeful that the Armed Services Committee, before acting on S. 1988, will require that any information which substantiates the intention of foreign nations to claim 200 mile territorial limits as a result of our extended fishing zone will be included in the record.

The conservation of our marine resources is in the best interests of us all—in the best interests of our commercial fishing industry and our sports fishermen; of the economy of the developing nations of the world and the peoples of the

world who depend on fish resources for protein; and it is in the interest of international good will and cooperation.

We cannot shirk our responsibility to the ocean resources off our shores. We can no longer ignore the grim forecasts of depleted stocks. It is our happy duty to lead the other maritime nations of the world into recognition of the conservation crisis and the potential for cooperation in alleviating this crisis. We hold out the proposal of an extended fishery zone to all of those maritime nations of the world which fish off our coasts to join with us in implementing this resource protection zone which will assure that in the 21st century we still have the opportunity to share the ocean's wealth. We ask all the nations of the world to join with us as responsible custodians of the ocean's resources for all generations to come.

I am hopeful that the testimony we receive today will demonstrate the strong support of the New England fishing industry for this legislation designed to reverse the devastating decline of America's oldest industry and the devastations of the world's oldest resources.

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., October 17, 1974.

HON. JOHN C. STENNIS,
Chairman, Armed Services Committee, U.S. Senate,
Washington, D.C.

DEAR JOHN: S. 1988, the "Emergency Marine Fisheries Protection Act," is presently under consideration by the Armed Services Committee. I would like to urge you to report this bill favorably from your Committee, and to support its passage on the floor of the Senate.

As a Senator from a Coastal state, I am deeply interested in the existence of a healthy and competitive domestic fishing industry, and the preservation of a means of livelihood for all those dependent upon fishing and related industries. Equally important is the assurance that the fishery resources of the ocean are preserved as a source of food for the future. Wasteful depletion of fish stock with no conservation controls can only result in a long-term crisis which may require costly and perhaps impossible replenishment efforts. We have learned this lesson well and harshly in other areas of economic development, and present depletion rates of our fishery resources require that conservation efforts be implemented as soon as possible.

The first step in this effort is the effective limitation of foreign fishing off our coastlines, and institution of a long-range management program for our fisheries. S. 1988 accomplishes both of these objectives by establishing a 200 mile fisheries zone and requiring the development of a marine fisheries management plan within two years of enactment of the bill.

The extension of the United States fisheries jurisdiction has been opposed on the grounds that the entire question of ocean policy and fishery management should be left to international resolution. In principle, I agree with this position. In reality, however, prolonged international conferences have not produced results, and historically the record of enforcement of existing agreements has been disappointing. The conclusion to be drawn from this past summer's Law of the Sea Conference is that agreement in this area may be well in the future, with implementation and enforcement of any agreements several more years distant. By then, the condition of our fishing industry may be such that the international solution reached may be both inadequate and untimely.

Further, S. 1988 does not undercut any future international agreement in the area of ocean fishery management. It is an interim measure to be preempted by international agreement, carefully limited in application to fishery jurisdiction only, and it preserves the traditional fishing rights of foreign nations on a reciprocal basis. The clearly stated policy of the Act is to maintain existing territorial and ocean jurisdiction of the United States in all areas other than fish conservation. Since it is well coordinated with expressed United States goals at the Law of the Sea Conference, enactment of S. 1988 may well be an impetus for swifter international accord.

Finally, I would emphasize that S. 1988, while offering specific protection for fishing and related industries, has far reaching beneficial implications. For ex-

ample, limitation of foreign fishing off shores should beneficially affec balance of payments. While United States consumption of seafood has incr dramatically, the U.S. percentage of the take of fish has remained rela stable. As a result from 1950 to 1972 we increased our importation of se from 23.4% to over 60%. From 1950 to 1969, world production of fish increased three-fold, resulting in serious depletions of numerous species of fish, including several species of direct importance to United States fishermen. Several of these species are presently regulated under current international arrangements, yet depletion of the stock has continued.

A favorable report of S. 1988 from the Armed Services Committee will aid in final enactment of this bill. I urge you to give it your support as an appropriate interim measure to preserve both our domestic fishing industry and to insure the wise management of all our fishery resources for future needs.

With best regards,

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

BOATOWNERS UNITED, INC.,
New Bedford, Mass., October 15, 1974.

Re S-1988 Legislation to Extend Our Exclusive Fisheries Zone from 12 to 200 Miles

Hon. JOHN C. STENNIS,
Chairman,
Committee on Armed Services

TUNA INDUSTRY

We have heard that the Tuna fishermen are opposed to extended jurisdiction. Who says their opposed? Many of the Tuna people are quietly buying licenses from foreign countries now in order to fish within their 200 mile limits. In addition, Star Kist Tuna Co., a subsidiary of Ralston-Purina has plants and fishing boat operations in South America, Africa, and trust territories. They have a joint venture with the Japanese in Japan. It is their representatives you will hear from in opposition not the fishermen.

SHRIMP INDUSTRY

Who says they are opposed? Not all shrimpers are opposed, Those who fish off of the Coast of the United States and the Gulf need and want this protection, because they fear what the Cuban and Mexican fishing interests will do when their resources dwindle.

The Cubans are building large fishing fleets now. You know where their expertise and financing come from. Will it be in the best interest of our security and defense to allow a large fleet of Cuban vessels to operate in the Gulf and Atlantic as the Soviets now do off of the New England Coast?

The Shrimping interests who are opposed to extended jurisdiction are those who own facilities and operate vessels inside of the 200 mile zone of other countries. Ask them when they testify. They represent 2% of the shrimp labor force and only 20% of the value of landings.

QUESTION ON JEOPARDY OF THE UNITED STATES SECURITY

This legislation is an interim measure—repeat—until the Law of the Sea Conference and ICNAF does their job. The legislation does not stop free and innocent passage over, upon, or under waters covered by the legislation. It simply is for fisheries protection—nothing else—to protect the resource for the future.

No joint research projects with other countries, security agreements, or anything else are effected in any way what so ever.

It does not effect any bilateral agreements in anyway. If it did they could be adjusted as they have been in the past.

For those paranoid who spend the ridiculous fear that the legislation is a detriment to defense and will cause confrontation, I must state that *without the legislation there will be confrontation.*

Over a month ago, one of our member vessels was hit from behind by a huge Foreign National vessel, and so severely damaged that it still is being repaired at tremendous cost to the individual captain who owns it.

On Sunday, September 22nd another vessel from our fleet was hit and sunk with the loss of the mates life. Confrontation is taking place.

Even our allies are taking our fishermen over the hurdles, while our Government stands by. I cite these statistics as proof. In a closed haddock area, where no haddock was supposed to be taken, the following British vessels were found on September 2, 1974:

1. *Marbella*, H–384, 130 Tons Haddock, 135 Tons Fish on Board. Undersized cod-end 113mm. Vessel cited for violation. The Master of the *Marbella* stated that he had no intention of leaving the area until he reached his 600 ton capacity.
2. *Seafridge-Skua*, H–138, 10 Ton Haddock, 45 Ton fish on board. Vessel cited for violation.
3. *Farnella*, H–135, 96 Ton Haddock, 101 Ton fish on Board, Undersized cod-end, 118mm. Vessel cited for violation.
4. *Coriolanus*, H–412, 10.5 Ton Haddock, 11.5 Ton fish on board, vessel cited for violation. The Master of the *Coriolanus* stated he would leave area if owner directs.
5. *Northella*, H–206, 10.5 Ton Haddock, 45 Ton fish on board, undersized cod-end 110mm. Vessel cited for violation.
6. *Southella*, H–40, 45.2 Ton Haddock, 48.8 Ton fish on board, undersized cod-end 116mm. Vessel cited for violation.

Our men are upset and angry and confrontation will become international incidents. We can avoid these confrontations if the legislation is enacted because surveillance and enforcement could become fact.

The Canadians and the Americans could jointly institute surveillance and enforcement on two coasts with their overlapping boundaries and interests. Canada is going to institute a 200 mile limit. If they do it without the United States there will be confrontations. Many other countries are going to institute a 200 mile limit, without United States approval or acceptance. There will be more confrontation. Our final answer for the brass paranoids in the Pentagon—The Law of the Sea Conference has already agreed to a 12 mile territorial extension and, in principal, a 200 mile economic zone. In effect they have already closed the straits and other passages to coverted military passage, which the Pentagon is worried about.

This legislation in no way effects the military. It only gives the American fishermen his just due. Mr. Chairman, without this legislation we cannot survive as an Industry—not even for two more years.

FISHING VESSEL OWNERS' ASSOCIATION, INC.,
Seattle, Wash., October 12, 1974.

Hon. JOHN STENNIS,
Chairman, Armed Services Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR: We regret that we were unable to have someone appear in person before your committee to testify on Senate Bill 1988 and to urge its passage by your committee. The notice of your hearing reached us too late to enable us to have someone in Washington on the date of the hearing. We are therefore going to confine ourselves to presenting this brief statement on the bill concerned primarily with our views of the bill as it relates to armed services issues.

Our testimony at the hearings of the Commerce Committee on S. 1988 as well as the testimony of others fully outlines the need for this bill and its effect upon the conservation of resources which provide U.S. fishermen the opportunity to feed their families and which provides not only U.S. consumers but also consumers of many other countries as well with wholesome sea food at reasonable cost. The contribution of seafood to the U.S. consumer is of military importance by itself.

A healthy United States fishing fleet useful in time of war is of extreme military value for two reasons. The first is the value of the vessels themselves as a ready available force during war time for surveillance duties, cargo carrying, patrolling and many other activities. The second involves the pool of highly experienced seamen available for many military duties in times of emergency. The value of a prosperous fishing fleet available at a moment's notice is self-evident. It needs no elaboration. Such a domestic fleet in our opinion can only exist if the stocks of fish within an economic zone of 200 miles off the coast of the United States are maintained in a healthy renewable condition. This can occur only if the United States has jurisdiction over the fishery resources in this zone. The

U.S. need not have territorial jurisdiction as jurisdiction over the coastal fishery resources is adequate for the purpose.

Those who oppose United States fishery jurisdiction in the proposed 200 mile zone do so by citing the possibility that other nations will use our extension of the economic zone from 12 to 200 miles to justify extensions of their territorial sea from 12 to 200. In our opinion the danger is just the reverse. If the United States fails to indicate in a positive way as outlined in S. 1988 the type of regime it is willing to create, other nations less conservative than the United States will extend their jurisdictions but they will be extreme jurisdicions including extensions of their territorial seas in addition to economic zones. To protect its interests, the United States should pass S. 1988, encourage other nations to pass similar legislation and thereby set the pattern and example of a 12 mile territorial sea rather than one of 200 miles. If there is no appreciable binding movement toward a 12 mile territorial sea and a 200 mile economic zone, it is a foregone conclusion that other nations will claim all they can of offshore jurisdiction. In other words the real danger is doing nothing rather than doing something. By enacting S. 1988, the U.S. will be leading the way, other countries will follow and before long a pattern of 12 mile territorial seas will be established with enough support from the maritime countries to make extreme territorial extensions unpopular except for a small number of minority countries.

It has been said also that the passage of a 200 mile bill will lead to a confrontation with the Soviets. This is most unlikely. The bill provides for fishing by foreigners within our 200 mile zone. This the Soviets are now doing off the Pacific Coast. Their fishing vessels this year took 150,000 metric tons of hake off Washington and Oregon. This could continue under the terms of S. 1988. The difference is that under S. 1988, we would have greater authority to insist that the Soviets limit their fishing to the amount of annual catch that the hake stocks could stand. The United States has had bilateral agreements with the Soviet Union covering certain of their fishing activities off the Pacific Coast. These agreements would be continued under circumstances that the Soviets could clearly understand. No confrontation would result. An example of this can be seen off South America where the Soviets have respected the 200 mile limit declared by certain countries resulting in no confrontation. The Soviets wish no confrontation with the U.S. nor do we. It is therefore unthinkable that when we set up a high seas regime to provide for adequate conservation and utilization of fish within 200 miles both for domestic as well as foreign vessels that a military confrontation will occur.

S. 1988 is a provisional bill only and it will end as soon as a satisfactory Law of the Sea Treaty is brought into being. It does not tie the hands of the negotiators. Its interim character gives needed protection during the time our negotiators are trying to hammer out an agreement. Our Law of the Sea negotiators can change the terms of S. 1988 in any way they wish as long as the result is satisfactory to the United States.

Another military factor in the Eastern Pacific to consider is the good possibility that many new nations will enter this area. This will create new burdens for our security. Passage of S. 1988 will deter many of these nations from entering the area. This certainly is of value from a military standpoint.

Another security plus is that as additional high seas areas are added to those now under United States control, our surveillance of these areas will improve. There will be more overflights and more surface patrols than is now the case. This will result in greatly added security.

Another criticism made against S. 1988 is that it will encourage foreign countries to deny United States fishing vessels the right to fish within their 200 mile zones. Such action would be against the best interests of those countries. If they have the capability to fish there themselves, they would be doing so now. If they do not have the capability which is the case with almost all of them, they will be seeking the help of the United States to assist them in getting their share of these resources. U.S. fishermen will be able to negotiate reasonable terms for fishing coastal resources as United States shrimp fishermen are successfully doing now on the northeast coast of South America. Here the United States has an agreement which permits our fishermen to fish shrimp within Brazil's 200 mile limit but outside its 12 mile limit. If it is possible to do it here, it is also possible to do it elsewhere. S. 1988 will have no effect on oceanic resources such as tuna as the bill provides for the maintenance of the status quo.

It is our firm belief that S. 1988 offers no threat to our security or to the manner in which our armed forces are operating. The bill refers to marine

resources only. It provides for foreign fishing within our 200 mile zone. It provides for consultation with foreign countries governing their conduct within our zone. It would therefore lessen the danger of confrontation and at the same time provide for the conservation of marine resources which will be much needed in the future as a part of the food supply necessary to feed an increasing number of people in all parts of the world. There certainly is less danger to world peace from an adequately fed population than from one which is inadequately fed.

The views given here are those based upon 60 years of experience in the field of international fisheries as this is the length of time that our association has been in continuous existence. Also, our manager has had over 50 years of continuous contact with the problem created by unrestrained foreign fishing off the shores of the United States.

We can only conclude that action on S. 1988 is most necessary if coastal, anadromous and oceanic resources are to survive. We therefore urge that your Armed Services Committee report this bill favorably to the Senate.

Respectfully submitted,

FISHING VESSEL OWNERS ASSOCIATION,
HAROLD E. LOKKEN, *Manager.*

EXTENDED TESTIMONY OF CHARLES R. CARRY

Mr. Chairman and Members of the Committee on Armed Services of the United States Senate, my name is Charles R. Carry and I am Executive Director of the Tuna Research Foundation of Terminal Island, California, which organization represents some 85 per cent of the producers of canned tuna in the United States.

I thank you for having given me the opportunity to present some brief testimony on the subject of S. 1988 at the hearing in Washington, D.C., on Friday, October 11, 1974, and further express my gratitude for your welcoming these extended remarks into the record of your proceedings on this subject.

As the representative of a multi-billion dollar industry including investments, the processing and marketing labor force and ultimate consumer sales—I must emphasize that our opposition to S. 1988 is principally based on the fact that this proposed legislation will not truly protect the U.S. domestic fishery (as it is supposed to do).

To the contrary. It will seriously cripple a major portion of it.

S. 1988 is detrimental legislation. It is detrimental, as previous testimony before this and other committees has indicated, to the most viable of United States fisheries—the shrimp fishery, the salmon fishery and the tuna industry.

While I am authorized to speak primarily for the tuna industry, I must in all fairness at this point clear the record of a misunderstanding that arose at the hearing in Washington on Friday, October 11.

At that time reference was made to the fact that the fishery opponents of S. 1988 represented but two per cent of the commercial fishermen in the United States. The reference was, however, a misquotation of the testimony of Mr. Leonard Roche.

It is a matter of fact that the fishermen engaged in the shrimp, salmon and tuna fisheries comprise more than 40 per cent of the total labor force of American commercial fishermen; they are in opposition to S. 1988 and it is they who are responsible for bringing in over half the total value of all United States domestic seafood production.

According to the Current Fishery Statistics of the United States, (C.F.S. 6400), issued for 1973 by the National Marine Fisheries Service, there are some 160,000 full-time and part-time commercial fishermen at work in this country. A study further shows that at least 66,000 persons in this total force of 160,000 are employed in the shrimp, salmon and tuna fisheries. We contend this is a labor force with a second record of high productivity which is deserving of priority consideration.

The opposition to S. 1988 is not a chauvinistic one, however. It is based on reality.

S. 1988, untimely and truly unwarranted, would set up a "domino philosophy" among other coastal states which would drastically hamper the most modern and advanced fisheries of our nation. A succession of 200-mile zones would be prohibitive to these fisheries. Take the tuna industry, for example.

Since about 90 per cent of U.S. caught tuna occurs within 200 miles of Latin American and African coasts—countries which would retaliate with their own 200-mile zones if S. 1988 were law—our sources of supply would be shut off.

What would this mean to us?

Consider these facts:

At least 80 per cent of all U.S. households used over $1 billion of canned tuna in 1973—50 per cent of the entire world supply;

Two-thirds of all U.S. homemakers purchase tuna as an excellent and economical source of protein and other nutrients on a regular basis;

During 1973, canned tuna represented 74 per cent of the value of all U.S. canned fish products for human consumption.

These are some of the economic and sociological aspects to consider. As legislators conversant with the current problems of the national economy, I am certain you can easily relate to them.

But let us view with candor some other facets of S. 1988 which could warrant a special concern for this committee charged as it is with responsibilities which transcend basic industrial and economic factors.

In my previous testimony at hearing before the Subcommittee on Oceans and Atmosphere of the Committee on Commerce, United States Senate, I stated that S. 1988 was "discriminatory, unnecessary and unenforceable".

The discriminatory part I have touched upon. S. 1988 doesn't protect U.S. fisheries. Not insofar as the tuna industry is concerned. It would put us out of business.

S. 1988 is unnecessary because, as I stated on Friday, October 11, before this committee, 77 to 80 per cent of all the fish caught by the United States commercial coastal fishermen are taken *inside* the current 12-mile contiguous zone. And this catch has been increasing in size despite all of the cries of coastal fishermen to the contrary.

So, I address my remarks to what is a principal area of concern to this committee—the unenforceability of S. 1988.

This proposed legislation would add 2,282,000 nautical miles to the jurisdiction of United States naval vessels and aircraft—and this poses an economical and physically impractical policing effort upon our armed forces.

An economic appraisal of S. 1988's enforceability has been offered by Admiral O. W. Sher, Commandant, of the U.S. Coast Guard, the text of which I offer as Appendix A.

In essence this document indicates that in the first year following S. 1988 becoming law, a total sum of $60 to $100 million would be required to implement that legislation in the enforcement aspects of an extended fishery zone. And an additional $30 to $60 million would be required on an annual basis.

How much better it would be to invest those sums in programs that would truly aid our fisheries, programs of oceanographic and biological research, support of maangement programs on a domestic as well as an international basis and, yes, financial aid to depressed U.S. fleets.

There is another factor concerning enforceability.

You are familiar with the reference by General George S. Brown, Chairman of the Joint Chiefs of Staff, to the 1958 Convention on the High Seas—to which our country and 52 other are party.

These countries recognized as general principles of international law the following: 1. freedom of navigation; 2. freedom of fishing; 3. freedom to lay submarine cables and pipelines, and 4. freedom to fly over the high seas.

If these, as General Brown contends, are endangered by S. 1988, they should have a high priority insofar as our country's economic and protective security is concerned.

Quite frankly, the passage of S. 1988 would present our citizens with a huge powder keg. It would court direct military confrontations with foreign powers over fishing rights on the high seas. General Brown alluded to that in his testimony. This country—hopefully—has ended an exercise, a costly one in dollars and, more tragically, lives, in Vietnam. Why do we beg more trouble—especially when it is unnecessary, especially when there are far better alternatives?

There are alternatives offered, intelligently, by the President of the United States in a recent letter to Senators Hugh Scott and Mike Mansfield. We have attached a copy of that letter as Appendix B.

Similar expressions were voiced by United States Secretary of State Henry Kissinger in correspondence with Senator J. William Fulbright, Chairman of the Committee on Foreign Relations, United States Senate, and I would note the Secretary's message has been documented in Report No. 93-1166 of the Committee on Foreign Relations.

In this letter, Secretary Kissinger states, in part:

"Passage of S. 1988 would hurt our relations with Japan and the Soviet Union as well as with other nations fishing off our coasts. In addition, any effort to enforce a unilaterally established 200-mile fisheries zone against non-consenting nations would be likely to lead to confrontations. Adverse reactions by foreign nations would be understandable for the United States itself has consistently protected unilateral extensions of fishery jurisdiction beyond 12 miles. A unilateral extension by the United States now could encourage a wave of claims by others which would be detrimental to our overall oceans interests, including our interests in naval mobility and the movement of energy supplies."

In view of all that has been presented, Mr. Chairman and Members of this Honorable Committee, we hold that not only is S. 1988 "discriminatory, unnecessary and unenforceable" but—and this is of extreme importance—contrary to the best interests of our country.

Thank you for your attention and consideration.

SEAFOOD PRODUCERS ASSOCIATION,
New Bedford, Mass., October 15, 1974.

Senator JOHN C. STENNIS,
Chairman, Senate Armed Services Committee, Suite 212, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR STENNIS: Last week at the meeting of the Armed Services Committee, you heard pros and cons concerning the Studds/Magnuson bill and I wish to reaffirm our position of support for the Bill.

Too many people involved in making this important decision are greatly removed from the scene and perhaps are not fully aware of the ramifications and the severe economic hardships caused by the intrusion of the massive foreign fishing fleets. The principal opponents of this Bill, the Tuna men, chasing a migratory fish which takes them almost to the shores of some foreign countries and the distant water Shrimpers, who produce a high priced delicacy in comparison to our basic species, lose sight of the fact that the foreign fleets, upon complete devastation of the fisheries stocks of the Northwest Atlantic will quite assuredly move and concentrate and take their species. Then, they will be in the same boat as we are.

The domestic fishermen, who harvest basic food fish from the Northwest Atlantic produces an economical, every day menu product of high nutritional value comparable to beef, pork, poultry, and lamb. This domestically produced fish is what the average American, Senior Citizen and School Lunch Program can tolerate economically. The production by foreign nationals, some of which is imported by the U.S. amounts to about 80 percent of all fish consumed in the U.S. This costs the consumer much more and at the expense of our dwindling fishing fleet.

In New Bedford alone, our 120 vessels have a present market value (depreciated) of 18 million dollars. Fifteen years ago, this Port had 216 commercial fishing vessels which plied the high seas.

The total poundage landed by the Ports of New Bedford; Boston; Gloucester; Provincetown; Pt. Judith, R.I.; Newport, R.I.; Portland, Me.; and Rockland, Me. total 374,986,000 lbs. The value of the various edible fisheries species landed is $54,195,000.00. Presently in New Bedford, there are 750 persons directly employed aboard the fishing vessels as compared with 1200 in 1959. The same ratio of decline has been experienced by these other New England ports because of the influx of the foreign subsidized fleets, who have been taking fish in our own backyard from our historical fishing grounds.

The Magnuson Bill S. 1988 could provide a temporary method of regulating all vessels who are fishing on George's. The methods and quotas which have been forced upon the U.S. fishermen by I.C.N.A.F. *have not* and *never will work.* The Caracas meeting provided no agreement other than the next meeting date. In the meantime, the depletion of our fishing grounds continues at a faster rate than our law makers can come to some agreement.

Therefore, we ask that your committee understand the bill and the imperative need for its passage. We must do something now to protect one of the world's best sources of food protein. Let us not be *embraced* in a "Fish robbery" similar to the so called "Grain robbery."

Yours truly,

WILLIAM BEAUMONT,
President.

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APPENDIX 8

THE WHITE HOUSE,
Washington, September 24, 1974.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR HUGH: As you know, the Senate now has before it a bill, S. 1988, which would unilaterally extend the contiguous fisheries zone of the United States from 12 to 200 miles. I greatly appreciate your vote against reporting this bill favorably out of the Foreign Relations Committee. While I fully understand the problems in protection of living resources off the United States coast which have led to the consideration of this legislation, passage could seriously harm U.S. oceans and foreign relations interests, including our fishery interests, and could paradoxically destroy the best opportunity we have had to definitively resolve our fisheries problems: That is by a comprehensive new oceans law treaty now being negotiated within the Third United Nations Conference on the Law of the Sea.

When the new oceans law treaty is concluded I expect that it will offer broad protection for our fisheries interests. In the meantime, you may be assured that I will do everything possible consistent with our present legal rights to protect the interests of United States fishermen and to preserve the threatened stocks of living resources off our coasts.

The Law of the Sea negotiations are most important, and our nation is deeply committed to their success. As such it is vitally important that the United States support the Conference in every way possible.

I would appreciate your calling the attention of the Senate to the strong opposition of the Executive Branch to this legislation. I am sending identical letters to Mike Mansfield and John Rhodes.

Sincerely,

GERALD R. FORD.

AMERICAN TUNABOAT ASSOCIATION,
San Diego, Calif., October 15, 1974.

Re S. 1988—Supplementary remarks.

JOHN C. STENNIS,
Chairman, U.S. Senate Armed Services Committee,
Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Attached hereto are copies of statements I prepared on behalf of the American Tunaboat Association for hearings conducted by the Senate Commerce Committee. It would be appreciated if these statements could be included in the Hearing Record.

The American Tunaboat Association (ATA) is a non-profit fishery cooperative association, incorporated under the laws of the State of California, with its principal office of business in San Diego, California. The ATA has been in existence since 1923. The membership is comprised exclusively of U.S. flag tuna fishing vessels. At present, there are ninety-five (95) member vessels in the ATA. Annually, our members catch and unload over 60% of all tropical tunas landed in the United States by vessels operating from the United States and Puerto Rico.

As of December 31, 1973, there were one hundred forty-nine (149) Tuna vessels in the U.S. Flag Tuna Fleet that had a frozen tuna capacity of greater than 101 short tons. According to the Inter-American Tropical Tuna Commission, as of August 1974, there were 205 tuna vessels in the U.S. Tuna Fleet regardless of the frozen tuna capacity size.

All of the member vessels in the ATA are of a frozen tuna capacity greater than 101 short tons. The Associations that represent other tuna vessel owners are the Fishermens Cooperative Association of San Pedro, California, and the Western Fishboat Owners Association. We are informed and believe that the Fishermens Cooperative Association opposes the passage of S. 1988, and that the Western Fishboat Owners Association (WFOA) has not taken any position on S. 1988. Please see the attached letter from WFOA to Senator John Tunney.

According to a publication of NOAA/NMFS "Fisheries of the United States, 1973, Current Fishery Statistics No. 6400," on page 82, there were estimated about

87,208 *full time* commercial fishermen in 44 states for 1973. (Please see page 82). In 1972, it was estimated by such publication that processing and wholesale fish establishments averaged about 68,964 employees and an employment season high of 91,268 employees. (Please see page 88). Based upon government and industry estimates, I am inforced and believe that there are about 22,800 people employed by U.S. flag tuna vessels and by tuna processing plants located in the United States, Puerto Rico and American Samoa.

It is the position of the American Tunaboat Association that it is to our interest and that of the United States of America to achieve an acceptable Law of the Sea Convention. This objective can be achieved only if the U.S. Senate avoids the temptation to enact legislation that would establish a unilateral declaration of ocean jurisdiction and sovereignty. We urge you to oppose the passage of S. 1988.

Thank you.

Very truly yours,

AUGUST FELANDO,
General Manager,
American Tunaboat Association.

WESTERN FISHBOAT OWNERS ASSOCIATION,
San Diego, Calif., May 15, 1974.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: I am writing with regards to the public hearing on S.B. 1988 conducted by you in San Francisco, California on April 19, 1974. There were two members from our Association that testified very eloquently in favor of S.B. 1988.

I am not rebutting their testimony in any way nor should you construe it to be a rebuttal in any manner whatsoever. I'm taking exception only to their statement that they were representing the official position of Western Fishboat Owners Association. This came about through a misunderstanding during a telephone conversation between myself and the two gentlemen that testified. I admit that I must bear the blame for the poor communications in explaining our official position.

In attempting to clarify this position on S.B. 1988, I feel that it is necessary to present a thumbnail sketch of our Association. W.F.O.A. is comprised of six hundred and eleven (611) boat owners, home ported from San Diego, California to Seattle, Washington with five members residing in Alaska. This lengthy area is divided into 12 districts and governed by a board of directors. Although W.F.O.A. was founded strictly for matters pertaining to the albacore tuna, unlike American Tunaboat Association or Eureka's Fishermen's Marketing Association, our members are engaged in several different fisheries. Where A.T.A. members are only concerned with tuna or the Eureka group, coastal bottom fish, our members, in addition to the albacore tuna, are engaged in yellowfin tuna, salmon, Dungeness crab, shrimp, and halibut fisheries, depending on where they reside. It is for this quite apparent reason that within our Association there are divergent views, pro and con, on S.B. 1988.

Until late 1973, W.F.O.A. had strongly supported the three species approach for managing the pelagic, anadromous and coastal stocks of the world's fisheries. However, with the continued postponement of L.O.S. and the ever increasing fishing pressures by foreign fleets on our coastal stocks, our central and northern members became much more vocal and expressed deep concern over this foreign intrusion and also felt that strong support should be given to S.B. 1988.

On the other hand, those members fishing albacore and yellowfin tunas became quite concerned that the widespread publicity on S.B. 1988 could have an adverse affect on the tuna industry. Our primary function is to negotiate a season price for albacore with the various tuna packers and you can only negotiate adequately by having a strong organization, not one splintered by internal strife. For this reason, our Board made the decision that our official position would be one of neutrality. However, we did not preclude our members from openly opposing or supporting S.B. 1988 as an individual fisherman.

In no way am I attempting to demean Mr. Speer's or Mr. Munro's testimony in favor of S.B. 1988, as it is quite probable that they represented the general feelings of at least a simple majority of our membership. My only wish is to clarify W.F.O.A.'s official position on this most controversial matter as one of neutrality.

Sincerely,

JACK C. BOWLAND,
General Manager.

AMERICAN TUNABOAT ASSOCIATION,
San Diego, Calif.

Mr. Chairman and members of the Committee, thank you for allowing us to again record our opposition to S. 1988.

I am August Felando, General Manager of the American Tunaboat Association. This non-profit fishery corporative association has its principal office of business in San Diego, California. The American Tunaboat Association (ATA) has been in existence since 1923. Its membership is comprised exclusively of U.S. flag tuna fishing vessel owners.

I have previously testified before this Committee on this subject during a hearing conducted by Senator Tunney in San Diego on April 18, 1974. An extensive background statement, attached, with numerous charts, tables and other data relevant to the subject, was introduced. During such hearing, time requirements prevented a complete reading of the statement.

During this hearing, I intend to answer some of the questions raised by Senator Tunney during the hearing in San Diego, and provide new information that updates my previous statement.

In my previous statement, which is before this Committee today, I stressed the point that in our judgment, S. 1988 "adversely affects existing treaties that provide for the rational use and conservation of tunas presently harvested by our members in the Eastern Pacific and Atlantic Oceans." My statement did not go into detail on how successful such management Commissions have been in carrying out their purposes. I believe it is necessary to supplement this statement by providing information on the workings of the Inter-American Tropical Tuna Commission (IATTC), and the International Commission for the Conservation of the Atlantic Tunas (ICCAT), primarily because of remarks made by the Chairman during this hearing, and also during the hearings conducted by this Committee on Monday, February 11, 1974, in Bellingham, Washington, and on Thursday February 14, 1974, in Aberdeen, Washington.

On page 30, Volume 2 of the transcript of the hearings conducted in Bellingham, February 11, 1974, during an exchange between the Chairman and witness Walt Yonkers, the subject of tuna conservation controls exercised by an international fisheries organization was discussed.

On page 21, Volume 5 of the transcript of the hearings conducted in Aberdeen, February 14, 1974, during an exchange between the Chairman and witness Harold Lokken, the Chairman again referred to the impact of S. 1988 on existing tuna treaties.

Contrary to such statements, an Atlantic Tuna Commission was established by a treaty negotiated in 1966. As my previous statement points out, the United States ratified such treaty in 1966, and, at present, there are 13 countries who are members of such Commission. The International Commission for the Conservation of Atlantic Tunas (ICCAT) initiated conservation measures on yellowfin tuna in 1972, and is presently examining a variety of measures for albacore, bluefin and skipjack fisheries.

In 1973, the production of yellowfin tuna reached its highest level in the history of the fishery. Nevertheless, U.S. scientists are expressing concern about the status of the Atlantic bluefin stocks. No concern has been expressed about the status of other tuna stocks in the Atlantic, such as albacore, skipjack, bigeye, and the southern bluefin. Scientists have expressed the view that skipjack stocks are greatly underutilized. In our opinion, it is not correct to charge that because we did not have a treaty in the Atlantic—even a loose treaty—the "tuna disappeared finally."

With respect to the tunas in the Eastern Tropical Pacific and the success of the conservation regime established by the Inter-American Tropical Tuna Commission (IATTC), the following comments are offered.

First, of the five tuna species fished in such area, only the yellowfin tuna is under regulation. The IATTC has been in existence since 1950. The yellowfin tuna fishery has been regulated since 1966. In 1966, the annual quota established for all member countries of the IATTC was 79,300 short tons. In 1974, the annual quota set by the IATTC was 175,000 short tons, subject to the right of the Director of Investigations to raise such quota to a total of 195,000 short tons.

The yellowfin tuna stocks under conservation controls by the IATTC are not in decline. Extensive documentation published by the IATTC are available to the interested public. The success of the IATTC is recognized throughout the world.

However, this is not to suggest that the conservation regimes established for tunas are free from improvements, particularly in the area of international cooperation for enforcement purposes. The fisheries proposal of the United States as presented to the preparatory sessions of the Law of the Sea Conference reflects a need for improving the control aspects of the international fisheries organizations delegated the power to regulate highly migratory stocks such as the tunas.

We believe, however, that not only would S. 1988 represent a "stab in the back" to the conservation regimes established by IATTC and ICCAT, but such proposal would frustrate future actions to strengthen such organizations or to create new international conservation organizations dealing with the tunas. Statistical data and other information contained in my previous statement support this conclusion. I will not take the time of this Committee to again review such documentation.

At the commencement of this hearing, the Chairman stated that the record developed by this Committee thus far revealed that international fisheries organizations are completely ineffective. In our opinion, we believe this conclusion is not supported by the record of the international fisheries organizations regulating the tuna stocks in the Pacific and the Atlantic. The American Tunaboat Association strongly urges the complete support and improvement of such regulatory devices to conserve and manage the tunas. We believe that this can be best accomplished by a successful Law of the Sea Conference. If, however, S. 1988 is enacted into law, we are of the opinion that such action by the United States will have an adverse impact on the political will of countries to seek international cooperation via an international fisheries organization, particularly as it is applied to tuna stocks. And, as it is well recognized, tunas are a species of fish that cannot be subject to the exclusive jurisdiction of any one nation. Therefore, in order to properly conserve tunas, we must enhance and improve the effectiveness of international fisheries organizations like ICCAT and IATTC.

Should the Committee desire further documentation on the effectiveness of ICCAT and IATTC to support our favorable opinion of such organizations, then we shall be most pleased to cooperate. In any case, it should be made clear for the record that the tuna industry denies the charge that the international fisheries organizations conserving tunas are "completely ineffective."

The Chairman of the Committee also stated that the record supports the charge that there is a general decline in the catch of the domestic fishing industry. On pages 12–13 of my previous statement, I offered the opinion that contrary to the proposed findings in Section 2(a) of S. 1988, there does not exist sufficient facts regarding overfishing to support the type of interim action proposed by S. 1988.

It is clear that S. 1988 is opposed by segments of the U.S. domestic fishing industry (salmon, shrimp and tuna) that account for nearly half of the U.S. catch of fish sold for human food. This type of opposition requires that the need for the drastic action suggested by S. 1988 be "real" and completely persuasive on totally factual grounds.

As stated in our previous statement, 1973 landings and values for all U.S. caught fish and shellfish exceeded 1972. Landing values on the fisherman's level approached a billion dollars in 1973. If you except tuna statistics, 1973 represented a one-year increase of about $194.3 million, or 30% (thirty percent) over 1972. More importantly, landing volume increased in 1973 over 1972. (Please see tables 3 and 4 in my previous statement.)

My earlier statement also provided preliminary statistics on landing values and volumes for 1973 and 1972 covering the States of Maine, Massachusetts, Rhode Island, New York, New Jersey, and Maryland. (Copies of the statistical documents prepared by the National Marine Fisheries Service concurring such statistics are attached.)

These six States enjoyed an increase in both volume and value of fish and shellfish landings in 1973 over 1972. In 1973, total fish and shellfish landing volume was 806.6 million pounds; in 1972, it was 763.3 million pounds. In 1973 total fish and shellfish values was $162.1 million; in 1972, it was $145.3 million.

On April 1, 1974, the National Marine Fisheries Service published statistics on the 1973 production of fish and frozen fish fillets and steaks in the United States. The statistical bulletin entitled "Current Fisheries Statistics No. 6408" is attached. These statistics are particularly relevant because they deal with the production of coastal species in all sections of the United States. Over thirty species of fish are involved.

As the summary indicates, both landings and value increased in 1973 over 1972. In 1973, landing volume came to 129.8 million pounds; in 1972, landings came to 126.6 million pounds. In 1973, landing value came to $108.6 million; in 1972, landing value came to $91.9 million.

This statistical bulletin also published an historical review of the production and value of fish and frozen groundfish and Atlantic Ocean perch fillets and steaks covering the years 1945–73. In 1973, cod landing volume was the *third* highest since 1945, and the *highest* in value for the entire 29-year period. In 1973, cusk landing volume and value were the *highest* recorded poundage and dollar value for the 29-year period. The review also indicated the decline of haddock in both volume and value. Except, that haddock landing volume in 1973 did exceed 1972, and haddock landing value was the highest in the past five years.

Within the past few weeks, additional statistical information has been published regarding the catch of U.S. fishermen for 1973. We note the preliminary estimates offered by Harry L. Rietze, Regional Director, Alaska Region, National Marine Fisheries Service, published in the *Fishing Gazette, Annual Review Number*. Mr. Rietze stated that:

"Alaska's major fisheries (salmon, halibut, and shellfish) show an increase in value to the fisherman of seventy percent, or from approximately 100 million dollars in 1972 to about 169 million dollars in 1973. Even though the value to fishermen showed a sharp increase, the amount of salmon and halibut decreased. Shellfish continued its upward trend and showed a gain of 27% because of an increase in landings of all shellfish except king crab."

The Gloucester Fisheries Commission of Gloucester, Massachusetts, reported by the above-referred Fishing Gazette, pages 136–140, that annual fish landings for 1973 exceeded 1972 by 16 million pounds, and fish values for 1973 exceeded 1972 by 2.5 million dollars. The statistics for the past five years covering Gloucester reflected the following upward trends in landings and values:

Year	Landing (pounds)	Values
1969	69,000,000	$6,635,000
1970	92,000,000	8,330,000
1971	111,000,000	7,800,000
1972	113,000,000	9,640,000
1973	129,000,000	12,147,000

As stated in our previous statement, the statistics being reported on fish landings and values raise some serious questions in our minds as to whether S. 1988 can be justified on the grounds that the fish stocks utilized by U.S. fishermen are all being overfished.

Recent statistics do reflect, however, that certain fish stocks are in decline. This is particularly true for the halibut stocks in the Northeast Pacific. Most people attribute this decline to the large-scale Japanese and Soviet trawl fisheries. According to published reports, Japan has agreed to impose restrictions on her fishing fleet which should reduce the incidence of immature halibut from being caught by Japanese longliners and Japanese motherships and land-based trawlers. Concern appears to be justified also by the catch statistics in the ocean region off the U.S. coast from Maine to Cape Hatteras and within the regulatory responsibility of the International Commission for the Northwest Atlantic Fisheries (ICNAF). However, since January 1st, 1974, conservation measures have been implemented for the purpose of reducing the region's total allowable catch for the next three years. In 1974, a total catch quota of 923,000 tons has been established. For 1975, the quota will be 850,000 tons and for 1976,

the quota will be whatever tonnage the Commission scientists agree to allow the region's biomass to begin to rebuild to maximum sustainable yield. ICNAF, which is comprised of ten member countries, including the United States, also agreed to continue trawl mesh size, but also to prohibit fishing from any of their vessels longer than 145 feet with other than pelagic fishing gear for the last six months of each year off Southern New England and in parts of the Gulf of St. Lawrence to Maine. Further, all member countries have agreed to an ICNAF joint inspection scheme for below-decks inspection as of 15 November, 1973.

It would appear from the above information that responsible and effective action has been initiated to resolve the problems confronted by U.S. fishermen off New England and by U.S. fishermen fishing for halibut. Such information seems to support our position that the "meat-ax" approach of S. 1988 is not necessary, and that the most meaningful alternative on an interim basis is for Congress to effectively support the U.S. fishing industry in strengthening both bilateral and multilateral agreements with nations whose vessels fish off U.S. shores. Again, we refer this Committee to the Geneva *Convention on Fishing and Conservation of the Living Resources of the High Seas*, and to the need for implementing such treaty by a federal statute as a way of resolving overfishing problems of coastal fishery resources.

In my previous statement, I contended that S. 1988 would harm our foreign trade in fish products. The statistical information provided only covered eleven months of 1973. I have now received information covering the entire 12 months of 1973.

Value—U.S. general imports for consumption, cumulative, January-December 1973 [1]

	Grand total	$68,655.954,588
	Fish and fish preparations (2 percent grand total)	1,386,052,650
031.0	Fish, including shellfish—simply prepared or fresh (87 percent of total fish and shellfish)	1,217,968,829
31.1	Fish, except shellfish—fresh, chilled or frozen	718,180,898
31.2	Fish, except shellfish—salted, dried, or smoked	34,772,147
31.3	Shellfish—except prepared or canned	465,015,784
032.0	Fish, including shellfish in airtight containers (12 percent of total fish and shellfish)	168,083,821

[1] Includes only imports for human consumption.

Source: U.S. Bureau of the Census, U.S. Imports—General and Consumption, Schedule A, Commodity and Country Report FT 135, December, 1973.

As these statistics indicate, canned or otherwise prepared fish only represents twelve percent (12%) or $168 million of the $1,386 million of fishery imports for human consumption. Over eighty seven percent (87%) or $1,218 million of fishery imports comes in fresh, frozen, chilled, salted, smoked, dried or otherwise simply prepared.

A significant share of this eighty seven percent segment of fishery imports is shellfish. S. 1988 will not help to reduce shellfish imprts. In fact, it would drastically reduce U.S. production of shrimp and lobster and in fact stimulate shellfish import dependency, particularly from Latin America.

With respect to fishery imports that are salted, dried or smoked, S. 1988 would not help reduce imports in this area. This is because in 1973, Canada's share of this import market was seventy one percent (71%), while another thirteen percent (13%) was taken by Iceland, Norway and Denmark.

As to the fishery imports identified as fish, except shellfish, fresh, chilled or frozen, and amounting to fifty-two percent (52%) of our total fishing imports, or $718 million. the following analysis is offered: about $194 million is represented by tuna imports; the remaining $524 million covered other ocean and also fresh water species of fish, principally groundfish. Significantly, $339 million of this total is represented by imports from Canada, Iceland, Norway, Den-

mark and Greenland. We are of the opinion that S. 1988 will not reduce imports from these countries.

As we analyze the foreign fishery trade import statistics for 1973, we conclude that S. 1988 would definitely not reduce, but rather increase shellfish imports, canned or otherwise ($465 million plus $51 million); nor would S. 1988 reduce fish imports that are salted, dried or smoked ($34.7 million). Further, that S. 1988 would cause an increase initially in frozen tuna imports ($194 million), and later a substantive increase in canned tuna imports ($40 million). Finally, that S. 1988 would not reduce imports of groundfish and other fish products from Canada, Iceland, Norway, Denmark and Greenland ($437 million).

It should be of interest to this Committee to note that for 1973, six countries controlled over fifty nine percent (59%) of the fishery imports for human consumption.

	Amount	Percent total
Canada	$299,447,075	21.6
Japan	227,142,602	16.4
Mexico	127,959,208	9.2
Norway	61,806,610	4.5
Iceland	51,306,485	3.7
Denmark	50,815,472	3.6
Greenland	8,057,464	.6
Total	826,534,916	59.6

In conclusion, we thank this Committee for offering us again this opportunity to provide data and documentation supporting our opposition to S. 1988. We urge you to reject S. 1988. Such proposed legislation will not protect the fish of interest to the United States from overfishing, nor will it protect the U.S. domestic fishing industry.

U.S. GENERAL IMPORTS FOR CONSUMPTION, JANUARY-DECEMBER 1973

Schedule A commodity by country of origin	Canada	Mexico	Japan	Iceland	Norway	Denmark	Greenland
I -031.1	$202 505,022	$9,132,402	$164,049,658	$45,552,079	$35,756,313	$47,947,537	$8,040,615
Percent	28.2	1.3	22.8	6.4	5.0	6.7	1.1
31.2	24 576,103	126,660	438,940	669,780	2,948,796	1,006,686	----------
Percent	70.7	0.3	1.1	2.0	8.3	2.8	----------
31.3	52.928,431	113,904,031	11,205,402	4,013,632	2,022	394,569	----------
Percent	11.4	24.5	2.4	.9	.0	.08	----------
II—032.0	19 437,519	4,796,115	51,448,602	1,070,994	23,099,479	1,466,680	16,819
Percent	11.5	3.0	30.6	.01	13.7	.01	0
Total	299,447,075	127,959,208	227,142,602	51,306,485	61,806,610	50,815,472	8.057,464
Percent	21.6	9.2	16.4	3.7	4.5	3.6	6

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C. October 17, 1974.

Hon. JOHN C. STENNIS,
Chairman, Armed Services Committee,
U.S. Senate,
Washington, D.C.

DEAR JOHN: S. 1988, the "Emergency Marine Fisheries Protection Act," is presently under consideration by the Armed Services Committee. I would like to urge you to report this bill favorably from your Committee, and to support its passage on the floor of the Senate.

As a Senator from a Coastal state, I am deeply interested in the existence of a healthy and competitive domestic fishing industry, and the preservation of a means of livelihood for all those dependent upon fishing and related industries. Equally important is the assurance that the fishery resources of the ocean are preserved as a source of food for the future. Wasteful depletion of fish stock with no conservation controls can only result in a long-term crisis which may

require costly and perhaps impossible replenishment efforts. We have learned this lesson well and harshly in other areas of economic development, and present depletion rates of our fishery resources require that conservation efforts be implemented as soon as possible.

The first step in this effort is the effective limitation of foreign fishing off our coastlines, and institution of a long-range management program for our fisheries. S. 1988 accomplishes both of these objectives by establishing a 200 mile fisheries zone and requiring the development of a marine fisheries management plan within two years of enactment of the bill.

The extension of the United States fisheries jurisdiction has been opposed on the grounds that the entire question of ocean policy and fishery management should be left to international resolution. In principle, I agree with this position. In reality, however, prolonged international conferences have not produced results, and historically the record of enforcement of existing agreements has been disappointing. The conclusion to be drawn from this past summer's Law of the Sea Conference is that agreement in this area may be well in the future, with implementation and enforcement of any agreements several more years distant. By then, the condition of our fishing industry may be such that the international solution reached may be both inadequate and untimely.

Further, S. 1988 does not undercut any future international agreement in the area of ocean fishery management. It is an interim measure to be preempted by international agreement, carefully limited in application to fishery jurisdiction only, and it preserves the traditional fishing rights of foreign nations on a reciprocal basis. The clearly stated policy of the Act is to maintain existing territorial and ocean jurisdiction of the United States in all areas other than fish conservation. Since it is well coordinated with expressed United States goals at the Law of the Sea Conference, enactment of S. 1988 may well be an impetus for swifter international accord.

Finally, I would emphasize that S. 1988, while offering specific protection for fishing and related industries, has far reaching beneficial implications. For example, limitation of foreign fishing off our shores would beneficially affect our balance of payments. While United States consumption of seafood has increased dramatically, the U.S. percentage of the take of fish has remained relatively stable. As a result from 1950 to 1972 we increased our importation of seafood from 23.4% to over 60%. From 1950 to 1969, world production of fish increased three-fold, resulting in serious depletions of numerous species of fish, including several species of direct importance to United States fishermen. Several of these species are presently regulated under current international arrangements, yet depletion of the stock has continued.

A favorable report of S. 1988 from the Armed Services Committee will aid in final enactment of this bill. I urge you to give it your support as an appropriate interim measure to preserve both our domestic fishing industry and to insure the wise management of all our fishery resources for future needs.

With best regards,

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 17, 1974.

Hon. JOHN C. STENNIS,
Chairman, Armed Services Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Last Friday morning, five other Members of the House and I discussed with President Ford the very real threat to our national—and global—supply of protein-rich food which is being caused by the massive foreign over-fishing on our shores. Since the Senate Armed Services Committee is now considering S. 1988, sponsored by Senator Magnuson, we want to report to you on that discussion.

During our discussion with the President, we asked if he would be willing—having now heard the fishermen's side of the story and our rebuttal to the arguments from the Departments of State and Defense—to take a fresh look at this legislation. The President responded, "I will approach it with an open mind."

I see no reason why passage of S. 1988 should precipitate retaliation against the United States by any other country, or why passage of such emergency interim legislation should jeopardize the conclusion of an agreement at the Law of the Sea Conference. I concur with the judgment of Senators Muskie and Stevens that such dire predictions represent only the worst fears of the Departments of State and Defense, and are not supported by any tangible evidence.

As primary House sponsor and on behalf of the 169 Members of the House who are cosponsoring the companion legislation to S. 1988, I respectfully urge your Committee to recommend its immediate passage. I would appreciate it if this letter could be made a part of the record of your recent hearings on S. 1988.

Sincerely,

GERRY E. STUDDS.

THE COMMONWEALTH OF MASSACHUSETTS,
SENATE, STATE HOUSE,
Boston, October 16, 1974.

Hon. JOHN STENNIS,
Chairman, Armed Services Committee, Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that the Armed Services Committee held its hearing on S. 1988 last Friday and that the record is still open. May I express my views for the record.

Since the years immediately following World War II our New England offshore fisheries have been steadily declining, first through foreign competition. Products have been caught by foreign fishermen making lower wages than American fishermen and shipped into our country, either in the processed or unprocessed state. Many of these foreign fishermen were using government-subsidized vessels, a few of which may even have been purchased with United States foreign aid money. During the years my father served in the Congress he worked on tariff and vessel subsidy problems, as you know, and had some small success in improving the conditions under which our fishermen had to work.

In the last decade a new problem has arisen which has proved to be more serious than the former. Our own fishing grounds off the New England coast have been invaded by substantial numbers, often in the hundreds, of vessels from eastern and western Europe and Japan. The larger fleets of these vessels operate almost like naval vessels and in fact they are government-owned. For example, last week I flew on a Coast Guard surveillance flight over an area where the previous week approximately 160 vessels had been seen, I was told. In one week this entire fleet had moved to fishing grounds off Long Island, leaving a scouting force of some dozen large vessels behind which I saw.

These large fleets are denuding our fishing grounds not only of the marketable fish but often of the breeding stock. The international controls through the ICNAF and bi-lateral agreements have come generally too little and too late. While, for instance, there are prohibited areas now to protect haddock breeding, the stocks of haddock are badly depleted and even though the price is high the fishermen are not making a successful living. The most serious problem is that no one is willing to invest in new vessels because they cannot make enough money to pay the mortgages.

At the Law of the Sea Conference in Caracas substantial progress was made toward securing a coastal fisheries management agreement. However, the conference broke up in disagreement over other subjects and will not reconvene until next spring. The United States delegates to the conference have returned enthusiastic that an agreement can be secured. Other observers have returned with gloomy forecasts. We in New England are frustrated over the future of our fisheries.

S. 1988 is a response to this problem. It provides that any agreement achieved at the Law of the Sea will supplant it and, in fact, in its present form would not take effect for a year. A treaty in any event overrides a statute.

I understand objections have been raised by the Defense Department that this legislation will impede naval and commercial free passage throughout the world. The bill does not speak to this point and, in fact, any coastal nation which wants to impede free passage now must do this by force. The international reaction would be swift. Fisheries management, however, appears to be recognized as a reasonable sphere of influence. Certainly the approach taken off Brazil already indicates as much, where the United States is paying for fisheries enforcement

off that coast. If the nations of the world are willing to agree that fisheries management is necessary—and it appeared at Caracas that they may be—it seems to me that we should take steps to establish this management before the fish are depleted beyond the point of return.

I hope that the committee can give early approval to S. 1988 or a bill embodying its principles. I believe that we must keep the United States in a position of leadership toward preserving its coastal fisheries, for they are in a dangerous state here in New England.

Sincerely yours,

WILLIAM L. SALTONSTALL,
Senator, Third Essex District.

APPENDIX A

DEPARTMENT OF TRANSPORTATION,
UNITED STATES COAST GUARD,
August 10, 1974.

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 2 May 1974 in which you request the Coast Guard's estimate of the cost of enforcing a 200-mile fisheries zone off the coasts of the United States. You also requested information with regard to the break down of Coast Guard cutter and aircraft operating costs between our various missions.

The situation with regard to resource requirements remains as it was when the Chairman of the National Security Council Interagency Task Force on the Law of the Sea advised you by letter of 18 January 1974 of the Executive Branch views on S. 1988, the "Interim Fisheries Zone Extension and Management Act of 1973."

> ". . . the extension of jurisdiction contemplated under this bill would require a substantial increase in enforcement capability to adequately patrol the expanded area. The precise extent of enforcement effort would depend upon a number of factors making the long-range impact on the extra resources needed impossible to assess at this time."

We have, however, developed cost estimates based on available information with full recognition that the estimates will require adjustment. The range of $30,000,000 to $60,000,000 for annual enforcement costs given to you by Dr. Robert M. White, Administrator of the National Oceanic and Atmospheric Administration, reflects the estimates that had been discussed between our agencies. Our estimates are revised from time to time as the underlying plans change or simply to adjust for increasing costs.

The Coast Guard will in the long run be more affected by any regulations actually imposed on foreign fishing vessels than by an extension of the contiguous fisheries zone. These regulations will probably change from time to time depending upon such things as the status of the fish stocks off our coasts, the availability of protein from other sources, and the harvesting capacity of the U.S. coastal fishing fleet. Probability of violation will vary with such things as the status of fish stocks in other parts of the world, the attitude of other coastal nations toward foreign harvesting of their coastal stocks, and the degree of acceptance of the regulations by the nations whose vessels are fishing off our coasts.

We think that we know where and for what species foreign fishermen are now fishing off our coasts. Enclosure (1) is a composite plot of sightings over a two-year period. The patterns change from time to time and new fisheries are developed, but there is no reason to believe that the active fishing areas will expand dramatically following an extension of jurisdiction. The coastal and anadromous species are found in areas that are more or less defined. Enclosure (2) is material on fish ranges copied from the sources indicated. The areas are for the most part those where we now have responsibility involving the fisheries under such provisions as:

1. 16 U.S.C. 986. National and international measures of control in connection with the International Convention for the Northwest Atlantic Fisheries. En-

closure (3) shows the area involved which covers the primary fishing areas off the east coast and extends well beyond 200 miles.

2. 16 U.S.C. 1083. Enforcement of the prohibition on foreign taking of Continental Shelf fishery resources. Enclosure (4) shows the area within the 200 meter isobath. The area of enforcement of this provision actually extends beyond that isobath as far as the superjacent waters admit exploitation of the resources and the sealed and subsoil are adjacent to the United States. This area covers primary fishing areas off all coasts.

3. 16 U.S.C. 1027. National and international measures of control in connection with the International Convention for the High Seas Fisheries of the North Pacific Ocean. This Convention applies to North Pacific Ocean and Bering Sea areas that are in some cases more than 200 miles from the U.S. coast.

We think that Mr. Richard H. Philips, editor of Pacific Fisheries Review and The Fishermen's News accurately describes our fisheries patrol effort on all coasts in his article on west coast fisheries in the May 1974 issue of the United States Naval Institute Proceedings:

"The U.S. Coast Guard does a remarkable job of patrolling the West Coast in the areas where foreign fleets operate. Those areas stretch from San Francisco to Kodiak, and on to Adak and include all of the eastern Bering Sea. It is a huge expanse of ocean, most of the year the weather is miserable, and the Coast Guard's surveillance ships and airplanes are spread very, very thinly."

Like any other law enforcement agency, we are uneasy when we are spread "very, very thinly." That spread will become more apparent with an extension of jurisdiction if only because of increased demand for information on offshore activity within the full range of that jurisdiction. This is likely to be true without regard to the regulations imposed on foreign fishing vessels, probability of violation, etc. We have developed a number of coverage approaches, and cost figures are set out in enclosure (5). The figures are based on recent data, but costs are changing rapidly. Assumptions have been made with regard to the availability for fisheries patrols of cutters and aircraft that must also serve other Coast Guard missions.

The cost factors included in the estimates shown in enclosure (5) are those relating to operating, activating, and procuring cutters and aircraft. Operating and procurement costs are based on cutters and aircraft now in our inventory or at such an advanced stage of planning that costs may be determined with a reasonable degree of certainty. Operating costs are those associated with a 12-month period when all the cutters and aircraft required for the enforcement approach are available and operating. This will not be the case immediately upon implementation of any new legislation due to the delays in activating and procuring additional cutters and aircraft required to fully implement the approach adopted.

Two approaches to continuing coverage of a 200-mile zone have been developed simply to demonstrate the costs involved. They serve no other purpose in our planning considerations, and we do not feel that the very large expenditures they require would be in the public interest. The first approach uses a mix of high and medium endurance cutters on stations 60 miles apart along the 200-mile perimeter. A mix of long and medium range aircraft would patrol the zone twice a week. The second approach uses cutters every 400 miles along the 200-mile perimeter on the theory that most violators sighted by twice-weekly overflights could be boarded within 24 hours.

A third approach, which we favor, is based primarily on coverage of known active fishing areas off our coasts. It is presently being used in our planning with full recognition that it and its related costs are subject to many variables. This planned approach would provide various levels of coverage of known active fishing areas in direct proportion to the experienced intensity of foreign fishing activity, i.e. our enforcement efforts would concentrate on those areas where and when the fishing is actually being done. Enclosure (6) presents the experienced variations in that activity over the last few years. In addition, some coverage to the full range of our jurisdiction will be provided to determine if changes in present patterns of fishing activity are occurring, to make our presence known throughout the area, and to facilitate apprehension. This approach would be usable with any foreseeable extension of fisheries jurisdiction. It is, in fact, useful now in planning our current effort to enforce our jurisdictional limits, monitor compliance with international agreements, and keep informed on fishing off our coasts.

If this approach were to be fully implemented, we will need to increase our operating facilities by six high endurance cutters, six long range search aircraft,

four medium range search aircraft, and then shipboard helicopters. To operate these facilities will require an increase in our annual operating funds of $47.2 million. The start up, acquisition and reactivation costs are estimated at $63.2 million. Both costs are estimated in fiscal 1975 dollars. Details are shown in enclosure (5). I would like to caution that these cost estimates are determined by both the latest economic trends and acceptance of our coverage concept. For this reason, the estimate must be used with care. If either the concept or the economic trends change, the estimate will have to be adjusted accordingly.

The period immediately following an extension of jurisdiction presents particular difficulties in planning. Added to the unknowns such as the regulatory scheme in effect and the probability of violation, there will be such other unknowns as the positions of various nations with regard to existing international agreements and the U.S. position with regard to any interim period and escalating enforcement measures. The time of year will also be important as demonstrated by enclosure (6). We expect some cutter shortages until the ships we now hold in reserve are reactivated. We also expect significant flight hour shortages until additional aircraft can be procured. Until this occurs, interim provisions will have to be arranged to ensure adequate aerial surveillance. These interim costs are not yet available. It should be noted that they are not included in the estimates shown in enclosure (5).

We could respond to any extension of fisheries jurisdiction immediately by using our active inventory of cutters and aircraft to best advantage by limiting safe speeds only as necessary to maintain the desired range of operation without regard to fuel cost. We could also overload our cutter crews for a period of time. If the extension comes within the next two years, we will have in reserve six high endurance cutters and a number of helicopters. The cutters could be reactivated in six to eleven months. The first helicopter could be operational in about six months. Costs of these actions are in enclosure (5).

A program breakdown of operating costs of cutters and aircraft used for fisheries enforcement during fiscal 1973 is enclosed. Although several other cutter types were used on fisheries patrols, their involvement was so slight that they have not been included in the cost data provided. Indirect support costs allocated to the program, e.g. shore stations, repair and training facilities, support staffing etc., are also not included.

I must correct one misimpression you expressed in your letter. We are not in the process of acquiring any additional fisheries patrol vessels. The six old high endurance cutters are being held in reserve as a stopgap measure for fisheries patrols if an extension of jurisdiction comes within the next two years. Normal planned cutter replacement will be required after that.

This is a difficult and complex issue which is complicated by rapidly increasing prices. For this reason, I request the opportunity to revise the estimates in light of the latest information available should you find need to use these data in the future.

Sincerely,

O. W. SHER,
Admiral, U.S. Coast Guard.

STATEMENT BY THE NATIONAL COALITION FOR MARINE CONSERVATION BEFORE THE SENATE ARMED SERVICES COMMITTEE, FRIDAY, OCTOBER 11, 1974

The membership of the National Coalition for Marine Conservation is composed of recreational marine fishermen, sportfishing clubs, commercial fishermen and others interested in the preservation of the ocean's living resources. Although the specific interests of some segments of the Coalition's membership are sometimes divergent, every segment of its membership shares the conviction that our coastal fisheries are a natural asset of vital, strategic importance to the nation that we must keep productive for future generations. Both the coastal commercial fishing industry and the marine recreational fishing industry are dependent upon the maintenance of high levels of abundance of coastal species of finfish and

shellfish. On a combined basis these industries generate annual revenues in the order of 8 billion dollars and provide employment for a half million Americans.[1]

The National Marine Fisheries Service estimates that utilized pursuant to an effective management regime the potential annual harvest of the coast fisheries might be as much as 40 billion tons of seafood and fish products. In a world which demand for food is beginning to outstrip production the importance of preserving the regenerative capability of coastal marine resources cannot be overstated. The productive capacity of marine resources is limited, and if the abundance of any given species is reduced beyond a certain level, the ability of the species to reproduce itself in commercially harvestable qualities becomes impaired. This is what is meant by the term "overfishing". Continued overfishing of a resource inevitably leads to severe and sometimes lasting damage. The total destruction of the California sardine fishery is frequently cited as an example of the economic extinction of a species caused by overfishing. Intensive fishing by foreign fleets off the coastlines of the United States from Maine to Alaska is leading to the rapid depletion of a number of commercially important fish some of which are nearing the point of commercial extinction.

Voluminous testimony concerning the depressed condition of the coastal fishing industry and the damage being wrought upon our coastal resources has been presented to the Committee on Commerce. Your attention is respectfully called in particular to the testimony of Jacob Dykstra, President of the Point Judith Fisherman's Cooperative, Narragansett, Rhode Island, given on December 6, 1973, Harold E. Lokken, Manager of the Fishing Vessel Owners Association of Seattle, Washington, given on February 14, 1974 and William Mustard, Executive Director of the National Federation of Commercial Fishermen, Washington, D.C., given before this Committee on October 11, 1974.

According to the National Marine Fisheries Service, "The volume of fish harvested off the U.S. coast has increased dramatically in 25 years from a level of about 4.4 billion pounds in 1948 to about 11.1 billion pounds in 1972. Almost all this additional catch has gone to foreign fishermen in their worldwide search for further protein supplies. The growth in U.S. consumption has therefore been supplied by imports". The arrival of fleets of foreign fishing vessels off U.S. shores has greatly increased the number of vessels between which diminishing fisheries stocks has to be divided greatly and the number of incidents between U.S. and foreign fishermen. Recently a U.S. vessel was sunk by a Soviet or Soviet-bloc ship escalating existing tensions and contributing to the potential for open confrontation.

Most of our coastal resources are being oxerexploited, and virtually all are fully utilized. Since the resources are limited in that they cannot be exploited without damage beyond a certain point, the only way to protect them is to find a means of limiting participation in the various fisheries. The history of fisheries management through international agreement inspires no confidence in State Department promises to secure interim treaty solutions pending the successful outcome of the Law of the Seas Conference. In fact all of the machinery created by the International Council for North Atlantic Fisheries (ICNAF), International North Pacific Fisheries Commission (INPFC), Inter-American Tropical Tuna Commission (IATTC), International Commission for the Conservation of Atlantic Tuna (ICCAT) and many other bi-lateral and multi-lateral treaties has been in existence throughout the period of the decline in the abundance of the stocks they supposedly manage and conserve. The 12 mile limit is also ineffective because, as pointed out by Mr. Dykstra, most of the target species of our coastal fishermen migrate seasonally across the 12 mile limit to the outer edge of the Continental Shelf.

In short, there can be no effective management without control of the resource. The purpose of S. 1988 is to establish the degree of control over the resource without which there can be no effective management. The only significant difference between the provisions of S. 1988 and the draft fisheries treaty presented

[1] In 1972 the value of the catch landed by 150,000 fishermen employed in the coastal fisheries exceeded $500,000,000, which is approximately equivalent to $1.8 billion on the retail market. In the same year an estimated 12 million American anglers spent $2.5 billion to fish in salt water. These figures do not take into account the amount of invested funds or number of persons employed in manufacturing, sales, distribution, transportation and service related to the sports and coastal commercial fishing industry; however, the total revenues generated by one marine recreational fishing industry alone has been responsibly estimated at 5 billion dollars!

to the Law of the Seas Conference in Caracas is the fact that S. 1988 would annex the required jurisdiction to regulate fisheries by unilateral action while the draft treaty would accomplish the same result by international agreement.

Spokesmen for the State Department, the Department of Defense, the tuna industry and the shrimp and Pacific salmon industries have appeared before this Committee to oppose the adoption of S. 1988. Two contentions are common to all of their testimony: first, that unilateral action by the United States will trigger unilateral extensions of territorial sovereignty by many other nations and second, that unilateral action by the United States could undermine the political compromise by which all nations would agree on a single package treaty at the Law of the Seas Conference.

The spectre of "creeping jurisdiction" is alarming to the Defense Department because it would tend to limit maximum mobility of our military forces in the pursuit of their global defense mission. The State Department fears "a crazy quilt of uncontrolled national claims . . . seriously harmful to our vital interests in both military and commercial navigation." Tunamen and shrimpers say they are concerned that they will be excluded from fisheries within 200 miles of other nations and the salmon people believe that if we exclude the Japanese from our coastal waters they will abrogate their agreements to abstain from fishing for salmon on the high seas.

All of these contentions appear to be based upon the assumption that if the Congress does not adopt S. 1988, other nations will not claim extended jurisdiction for any purpose, which is a very dubious assumption, or upon the assumption that having claimed exclusive fisheries jurisdiction to a distance of 200 miles from shore by the adoption of S. 1988, the United States will proceed to exclude all foreign fishing within the management zone—a totally groundless assumption.

With respect to the first of these assumptions it should be pointed out that the United States was among the last of the coastal nations to adopt a 12 mile limit. The looming confrontation between coastal nations asserting the right to protect contiguous fisheries and the distant-water fishing powers determined to exploit the coastal fisheries of other nations led to the convening of the 1958 and 1960 Law of the Seas Conferences. Whatever else these Conferences may have accomplished, they demonstrated broad acceptance of the concept of extended fisheries jurisdicton—at least to a distance of 12 miles. By the middle of 1966 some 32 nations claimed fisheries jurisdiction of 12 miles or more. By that time the rapid build up of foreign fishing fleets in the Northwest Atlantic and Northeast Pacific had given new impetus in the United States for extended limits, and the State Department finally withdrew its opposition to the proposal.

Two hundred mile limits are developing in a manner which closely parallels the history of the 12 mile limit. By the beginning of 1973 at least 24 nations had established territorial or fisheries jurisdiction limits of 50 miles or more. This situation led to the convening of the Third Law of the Seas Conference in Caracas where, according to the testimony of Ambassador John R. Stevenson, given before the Senate Foreign Relations Committee, there was a "strong trend for acceptance of a 200 mile economic zone providing coastal states with jurisdiction over coastal fisheries in a 200 mile area off their coast." It is this general climate of acceptance that will encourage widespread adoption of the 200 mile limit by other nations. Whether or not the Congress adopts S. 1988, the nations that intend to adopt a 200 mile limit will do so, because they learned at Caracas that the rest of the world is ready to live with the 200 mile limit.

As to the second assumption, the assumption that adoption of S. 1988 will mean the expulsion of all foreign fishing vessels from the fisheries zone which will lead to retaliatory action harmful to our distant water fishing industry, there is no language in S. 1988 that expresses or implies an intention to exclude all foreign fishing from the management zone. Section 5(b) entitled "Foreign Fishing Rights" provides that "the allowable level of traditional foreign fishing shall be set upon the basis of the portion of any stock which cannot be harvested by citizens of the United States". This is entirely consistent with the principle of preferential rights of coastal states to coastal stocks embodied in the 1958 Geneva Convention on Fisheries and generally accepted in the international community.

As a matter of fact there are many stocks which the domestic fishing industry is incapable of utilizing to the point of optimum sustainable yield at this time; there are some stocks that may be restored in a few years to a level of abundance that will sustain harvests in excess of domestic capacity; and there are some

stocks as to which there is no significant commercial market in the United States. All such stocks represent opportunities for continued foreign fishing. In addition, it is inevitable that entry to the management zone will be used as an inducement in negotiations for concessions from other nations concerning anadromous and migratory species.

Among the objectives specified in Section 6(a) of S. 1988 are "enhancement of total national and international world food supply . . . maximum feasible utilization (consistent with) protection of the ecosystem which fish are a part, conservation of stocks and effectuation of the purposes stated in Section 2(b)(4) of this Act". Section 2(b)(4) calls for the development and implementation within two years of the date of enactment of S. 1988 of the best practicable management system "consistent with the interests of the Nation, the several States *and of other nations*". Thus the language of the Act itself rebuts the assumption that the intent of the Act is to exclude foreign fishing.[2]

in the world would be devastating to military mobility. It would result in prohibition of overflight by aircraft and submerged operation of submarines except at the sufference of a coastal state in almost forty percent of what is now internally recognized as high seas."

General George S. Brown, Chairman of the Joint Chiefs of Staff, testified that "The effect of a 200 mile territorial sea extending off the coasts of many nations

In addition to the assumption that other nations will not adopt 200 mile limits if the Congress does not adopt S. 1988, this assertion contains the suggestion that if the Congress adopts S. 1988, the United States must abandon its traditional insistence upon the right of free passage. The basis for this suggestion is unclear because the scope of S. 1988 is specifically limited by Section 2(c)(3) which provides that "it is further declared to be the policy of the Congress in this Act . . . to authorize no impediment or interference with the legal status of the high seas, except with respect to the extent necessary to implement this Act". Therefor if adoption of S. 1988 would act in effect as an estoppel to our right to object to the claimed jurisdiction of other coastal nations, that estoppel is limited to acts interfering with the legal status of the high seas to a degree of no greater consequence than the assertion of the right to manage fisheries on an interim emergency basis, and the United States would remain logically and morally free to continue to oppose unilateral claims interfering with freedom of navigation and freedom of overflight.

In its statements concerning its requirements with respect to freedom of navigation, the Defense Department has infiltrated a number of concepts which are basically alien to the traditionally accepted meaning of the term. In a recently published paper Dr. Robert E. Osgood, Dean of the John Hopkins School of Advanced International Studies,[3] points out that the generally accepted concept of innocent passage relates to commercial vessels; nevertheless, as used by the Defense Department it refers to a claimed right of secret passage under the high seas and through international straits without which "both the survivability and utility of our nuclear deterrent" are threatened. Dr. Osgood's scholarly analysis concludes that for the purposes of the nuclear deterrent the entire U.S.S.R. can be targeted from the Atlantic and Pacific Oceans and the Arabian Sea without transit through international straits which could be closed as a result of a general 200 mile extensions of national sovereignty; that military requirements are overstated; and that submerged transit through international straits should not be considered a non-negotiable item inhibiting international agreement on ocean use.

The second proposition articulated by most opponents to the adoption of S. 1988 is that adoption of S. 1988 will so weaken the United States negotiating posture at the Law of the Seas Conference as to threaten the successful outcome of the Conference. Referring to the Law of the Seas Conference, John Norton Moore told this Committee that "we have reached a rare and perhaps fleeting moment in history when there is opportunity for all nations to agree on a comprehensive legal regime for over two-thirds of the earth's surface".

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[2] The current version of this bill pending in the House (H.R. 9136) does not contain the language quoted hereinabove; however, it does provide in Section 4(a)(2) that the Secretary of the Treasury may authorize foreign vessels to fish within the zone "upon determining, after consultation with the Secretary of State and the Secretary of Commerce, that such fishing would not result in depletion of such fish beyond the level necessary for proper conservation purposes."

[3] "U.S. Security Interests in Ocean Law," Ocean Development and International Law. *The Journal of Marine Affairs*, Vol. 2, No. 1, Spring 1974.

A less enthusiastic reporter for the *Wall Street Journal* concluded that "after 7 days of talk about a law to govern use of the oceans and their resources, the conference is making only one decision: to hold more conferences". Indeed any other result would be more surprising. Of the 149 nations taking part in the deliberations more than 50 states have never participated in a Law of the Seas Conferences. According to Senator Stevens of Alaska, "most new participants are developing nations, newly independent, which have only recently turned their attention to Law of the Seas issues. They mistrust the motives of developed nations and doubt their own present ability to discern their future national interest in Law of the Seas issues. Many have, therefore, taken highly nationalistic and secure positions which are, unfortunately, quite unacceptable to developed maritime nations, such as the United States".

A further impediment to swift action, or indeed to any action, by the Law of the Seas Conference is that more than 80 issues are under consideration. On July 11 Ambassador Stevens stated that the United States would accept nothing less than a single comprehensive treaty resolving all of the issues before the Conference. Senators Case, Muskie, Pell and Stevens came away from Caracas convinced that this would take a very long time to accomplish. Thus while Mr. Moore, General Brown, and Messrs. Carry and Felando, representatives of the tuna industry, allege that S. 1988 undermines the United States' position at the Law of the Seas Conference and the likelihood of the Conference resulting in an acceptable agreement, it appears to others that that likelihood of the Conference resulting in an acceptable agreement was remote to begin with and made more so by the State Department's insistence upon a single comprehensive treaty.

Of all the subject matter to which issues before the Conference relate only the fisheries are endangered by further protracted deliberation and delay. There is every logical reason why these should be treated separately and expeditiously. The refusal of the State Department to accede to this obvious imperative casts doubt upon the sincerity of its many reassurances to the coastal fishing industry and justifies the suspicion that fisheries issues are low on the State Department's order of priorities.

Opponents of S. 1988 frequently allege that adoption of S. 1988 would abrogate the 1958 Geneva Conventions on Fishing. This is undoubtedly true, but there is considerable difference of opinion as to the significance of the 1958 Geneva Convention on Fishing. To begin with only a relatively few nations signed and ratified the 1958 Convention and of these that did only the United States can be counted a major fishing power. Moreover, no specific limit on either fisheries jurisdiction or the territorial sea was achieved by the Convention. In 1958 few could have foreseen the rapid evolution of fisheries technology and the vast build-up of distant water fishing fleets which has produced a capability by concentrations of intensive effort to deplete fisheries within a short period of time. Clearly, the Convention is of no effect between non-signers or between a signer and a non-signer. It is no longer certain that the Convention is binding upon the nations which signed it. An international convention, after all, is no more than an attempt to codify generally accepted international custom. Inasmuch as a majority of nations did not sign the 1958 Convention, it cannot be said that the principles of the Convention represented generally accepted international custom during the period that the Convention was open for signing.

In addition, approximately 36 nations have declared exclusive fisheries zones beyond 12 miles and we have Ambassador Stevens' statement that upwards of 100 nations represented at Caracas expressly endorsed a 12 mile territorial sea with an economic zone extending to 200 miles, all of which would appear to indicate that whatever the custom may have been in 1958 it now no longer conforms to the principles set forth in the 1958 Convention. The calling of the Third Law of the Seas Conference is further evidence of that fact.

Turning now to the specific concerns of our distant water fishing industry, it is patent that these concerns are legitimate, if perhaps somewhat overstated There is no doubt that an increasing number of nations will claim the right to regulate fisheries within 200 miles of their seacoasts and it is probable that most regulations will be imposed with a view to raising revenue rather than conserving the stocks concerned. Many Latin American nations have already acted in this respect. Many African nations will undoubtedly follow their example, and they will do so whether or not the Congress adopts S. 1988. The Brazilian Shrimp Act demonstrates that the requirements of other coastal nations can be satisfied

by international agreement. If such arrangements are in effect a form of subsidization of our offshore fishing industry, such a subsidy is more than justified by the economic benefits which will result from a healthy offshore industry. Such arrangements will not cure the problem of over-capitalization facing the offshore fishing industry which must not be allowed to result in overfishing of migratory stocks, or lead to unjustified claims as to underutilized stocks in the coastal waters of other nations or in the high seas.

The specific claim of the salmon industry is somewhat different in that it presumes that unilateral action by this country will lead to the abrogation of Japanese abstention agreements. With Japan, however, there is a direct trade-off which should enable the negotiation of an agreement permitting entry into the management zone in return for continued abstention from fishing for salmon on the high seas. This point was covered exhaustively by Mr. Lokken before the Senate Commerce Committee.

Because the Japanese, like the Soviets, have a superior understanding of fisheries population dynamics and the adverse impact of continuous overfishing, and because they have more to lose than most other nations in the event that any major fishery is totally destroyed, it is unlikely that the enforcement of fisheries management regulation will lead to the type of confrontation or the build-up of international tensions alluded to by the opponents of S. 1988. Such tensions and the potential for such confrontations already exist in some degree and threaten to increase whether or not S. 1988 is adopted. The Japanese and the Soviets are willing to accept the risk during the period prior to the creation of exclusive fisheries zones by unilateral action or by international agreement partially because of the investment tied up in excessively large fishing fleets. However, Soviet and Japanese planners cannot be unaware of the general move toward extended jurisdiction. Also it is likely that in view of the depleted state of most fisheries operation of such fleets can no longer be justified economically.

In summary the Coalition contends that the preservation of our coastal marine resources are more vital to our national interests than the overstated and unsupported contentions made by the State Department and the Defense Department and does not, in fact, jeopardize either our international relations or our strategic defense. To the contrary, the Congress should recognize that the continued pendancy of S. 1988 has been one of the most positive and constructive forces impinging upon international negotiations concerning ocean use. It must remain for the Congress to countermand the continued inflexibility and short-sighted planning which have characterized international policy for many years and contributed materially to the decline of our nation's acceptance as a world leader and as a global political and economic force. S. 1988 should be considered as an opportunity for the Congress to exercise leadership in World affairs by enacting an exemplary 200 mile limit measure.

RESPONSE OF THE NATIONAL COALITION FOR MARINE CONSERVATION TO QUESTIONS SUBMITTED BY THE SENATE ARMED SERVICES COMMITTEE

Question. In what specific ways will this legislation promote fishery conservation?

This legislation will create the legal authority without which no meaningful conservation can be imposed or enforced. Virtually all coastal fisheries lie within the contiguous fishery zone established by Section 4(a) of the Act. Virtually all previous attempts to manage high seas fisheries by international agreement have failed for lack of enforcement authority. Enforcement authority, otherwise referred to as "control of the resource" has repeatedly been proved to be the key to successful fisheries management.

By operation of Section 5 foreign fishing rights with respect to any given stock are subordinated first to overall conservation considerations and second to the preferential rights of U.S. citizens. The Secretary of Commerce is directed to determine the optimum sustainable yield for any given stock on the basis of the best available scientific information and then to allocate the amount by which optimum sustainable yield exceeds the U.S. catch among foreign fishing fleets on the basis of traditional fishing interests. Specifically, then, this will limit the total catch to the level of optimum sustainable yield.

The Act also creates a Fisheries Management Council for the purpose of developing a management scheme (Section 6) and directs the Secretary of State to seek supplementary solutions by international agreement (Section 7).

The immediate conservation benefit relates to the coastal fisheries. The Act recognizes that the Congress cannot claim jurisdiction over anadromous and migratory species within the territorial waters or contiguous fishery zone of any other nation. For the most part, treaty arrangements, the authority of which supercede the provision of the Act, supposedly control fishing rights to such species. The purpose of Section 7 is to encourage the expansion of the scope and effect such treaty arrangements.

Question. How soon can this legislation be expected to have a significant impact on fishery conservation?

The leadership of the National Coalition for Marine Conservation is firmly of the opinion that this legislation *has already had a significant impact on fishery conservation* which will be greatly magnified immediately upon the adoption of this legislation. Other nations negotiating fisheries treaties with the United States are and have been aware that S. 1988 is pending in the Senate and that although it is contested it has attracted substantial support. The pendancy of and support for S. 1988 is a clear signal to such nations that there is a growing concern within the Congress and the nation for this long-neglected area. The same knowledge and awareness has stimulated a response from the State Department which although largely misdirected and mostly ineffectual to date could in view of the more realistic response by other nations lead to some improvement in international arrangements relating to fisheries.

Section 2(b)(4) calls for the development and implementation of a management system within two years of the enactment of S. 1988. This provision seems to have given rise to the misconception evident in some testimony relating to the Act that there will be a 2-year lag between the adoption of the Act and its impact upon fishery conservation. Actually, all foreign fishing except as permitted by the Secretary of Commerce pursuant to the Act is outlawed 90 days after adoption of the Act (Section 5(e)) and at the same time the rule-making authority of Section 4(3)(d) becomes vested in the Secretary.

As a practical matter most of the critically depleted fisheries are subject to treaties which supercede the Act, so that technically the impact of the legislation would be deferred until such treaties expired or were terminated. However, inasmuch as the adoption of S. 1988 will completely reverse the bargaining position of the United States with respect to international fishing rights within the contiguous zone, the impact of the Act on fishery conservation would be immediate for all intents and purposes.

Question. How effective do you expect enforcement of any conservation measures to be under S. 1988?

The effectiveness of the enforcement of conservation measures depends in part upon the effectiveness of the conservation measures and in part upon the effort expanded in enforcement.

To be effective, conservation measures must be tailored to the state of the stock sought to be conserved and to the techniques and capabilities of the industry harvesting the stock. Whether these criteria are achieved depends upon the success of the rule-making effort under the Act, but so long as the regulators seek to limit total effort to levels which species within a given area can withstand, conservation measures should be effective and easy to enforce. Because of the bi-catch problems of mixed species, regulations seeking to set quotas on a per-specie basis will be very difficult to comply with and nearly impossible to monitor or enforce.

Recent increases in inspection efforts under international treaties presently regulating coastal fisheries have turned up an increased number of violations. There is no evidence to indicate that increased efforts has reduced the over-all number of violations of fisheries regulations within regulated fisheries nor have we enough information to permit us to guess what level of enforcement effort is required in order to achieve a level of compliance that results in effective conservation. On the other hand, there is every reason to expect that adoption of S. 1988 will immediately result in a reduction of foreign effort within the contiguous fishing zone simplifying the enforcement problem.

State Department spokesmen are fond of comparing our fisheries problems to the early days of oil drilling. Before spacing and allowables regulations were imposed, economics favored the operator who could extract the most oil from the pool—however wasteful that might be in terms of the total amount of oil that could be pumped from the pool. Similarly where there is no management scheme, operators will compete to seek out and destroy the most fish without regard to future abundance. The economic consequences of this course of action

are already becoming apparent to the large fleet operators. It is becoming increasingly difficult to justify the large investment in distant water fishing vessels in terms of the diminishing amounts of harvestable protein. The essential economic fact of fisheries that have been overfished is that an increase in effort does not result in a corresponding increase in yield. For this reason the fishing powers are already grappling with the necessity to redeploy or reduce their fishing efforts in several fisheries within the contemplated contiguous fishery zone. To the extent that these realities are already recognized and the need for management accepted the task of imposing and enforcing a reasonable and effective management regime is made easier.

THE NATIONAL FISH MEAL & OIL ASSOCIATION,
Washington, D.C., October 17, 1974.

Re S. 1988.

Hon. JOHN C. STENNIS,
Chairman, Senate Armed Services Committee, U.S. Senate,
Washington, D.C.

DEAR SENATOR STENNIS: Our office represents the menhaden fishing industry, whose members on a volume basis harvest 40–45 percent of the total catch and landings of all fish and shell fish harvested by U.S. fishermen, including that of both our coastal and distant water fishermen. Attached is further background information on this fishery.

We were not advised that witnesses from the fishing industry could testify at the hearings conducted by your Committee last Friday on S. 1988. Apparently some segments were invited and did testify. We would have welcomed an opportunity to appear and present our views on this most important legislation. As we did not have the opportunity to do so, I respectfully ask you and other members of the Armed Services Committee to read and consider the views and suggestions of our segment of the fishing industry with respect to S. 1988, as briefly outlined herein.

The Report of the Senate Committee on Commerce on S. 1988, printed August 8, 1974, clearly sets forth its findings on the damage and destruction that has been inflicted on U.S. coastal fisheries and fishery resources over the past decade by the unrestricted fishing of the large foreign fishing fleets. I attended many of the hearings held by the Committee, including those held in Alaska, and found the proposed legislation strongly supported by most coastal fishermen and the various coastal State Fishery Agencies, which have the responsibility for conservation and management of these fishery resources and by conservation groups. Like these, NFMOA is strong in support of its passage.

Even spokesmen for the Federal Agencies of Government who are strongly opposed to S. 1988 do not dispute the findings of the Committee with respect to the over fishing and destruction of the fishery and coastal fishery resources by the foreign fleets. In fact, some have privately said that because of the run-down condition of the various segments of the U.S. coastal fleets and the depleted status of the fish stocks, it is questionable if the fishermen would be able to replace their rundown vessels and gear back up for fishing, even if the foreign fleets are removed, or their fishing operations curtailed.

With this kind of indifference towards our coastal fisheries, the view has been expressed by some of these officials that the U.S. can afford to withstand the continued uncontrolled fishing pressure of these large fleets for several years, if it takes that long, in the interest of making further effort to reach agreement on a fisheries Convention and the other issues before the Law of the Sea Conference. It seems to me that this kind of reasoning and policy does not provide much hope for the future welfare of our coastal fishermen, or for the fishery resources themselves, which are in such critical need of protection before these fish stocks are wiped out as resources of economic importance and food value.

I know the members of Congress who have conducted or participated in the Hearings this fall on S. 1988 and the companion Bills in the House are aware of the optimism government witnesses appearing before these Committees have expressed about reaching agreement on a package deal next year at Geneva on all of the highly controversial issues that are before the Conference. I would like to be able to share that kind of optimism, but, for a number of reasons, I

cannot, when considering the varied interests of 148 nations participating, their expressed positions, the status of some of their present ocean uses and the benefit they would expect to accrue to them in the development of a world agreement covering all the interests involved in such a Convention. Not only is it to cover the renewable and non-renewable marine resources of the waters and seabeds, but would include and require agreement on such issues as the breadth of the Territorial Sea, navigation and over flights of the narrow Straits and sea lanes by commercial and naval vessels, including warships and submarines, and by airplanes—both commercial and military—pollution control, scientific research, and a number of other broad issues that are important and controversial.

Considering just the question of fisheries, we should realize that with few exceptions the nations with the large over seas fleets such as the USSR, Japan, Poland, East Germany and others that conduct fishing operations on the high seas off the shores of other countries, with few exceptions, are presently enjoying freedom of fishing for their fleets. Largely this same situation prevails with respect to the U.S. overseas tuna fleet, but with the added protection whereby the U.S. taxpayer pays for any fines, license fees and lost fishing time that the tuna vessels encounter as a result of being seized by foreign countries off whose coasts they fish.

Government witnesses have said that the provisions of S. 1988 are quite similar to the draft Articles on Fisheries tabled by the U.S. last summer in Caracas.

Even so, most of us are familiar with the all-out effort of the U.S. tuna and shrimp industries with overseas fishing fleets to have S. 1988 defeated. If this is an example of the kind of effort the nations with the large overseas fishing fleets mentioned above will organize at Geneva next year to forestall agreement on a world convention on fisheries that would hamper their present fishing operations, I can foresee there will be very little chance of reaching an agreement.

It is inconceivable to me that these nations, or for that matter the tuna industry, will go into the Law of the Sea Conference and negotiate away the fishing rights and other benefits they now enjoy, and by so doing, put aside for all times the concept of freedom of fishing on the high seas which they otherwise could continue to use to their great advantage. In many ways this concept is now being used to the great advantage of the overseas fleets in gaining access to the coastal fishery resources off other nations, or in getting license fees, fines, and lost fishing time paid for when vessels are arrested by foreign nations.

As for the nations that presently claim jurisdiction over fisheries in the area from 50 to 200 miles off their shores (16 nations) and their strong supporters, which account for a large majority of the developing coastal nations participating in the Law of the Sea Conference, they will not willingly or likely, in my view, accept a Convention on the living and non-living marine resources that does not give them absolute, or at least substantial control over these resources in the so-called 200 Mile Economic Zone off their coasts. They also have many other interests in the issues before the Conference which this large group of developing nations have been able to stick together on as a group, and which have to be reckoned with before an agreement acceptable to the developed nations can be reached.

Ever since the first Preparatory Conference on Law of the Sea was held several years ago, those of us who attended recognize that a stalemate has developed and dragged on year after year because of the strongly opposing positions taken by the various nations. In my view this will continue in 1975, and perhaps for years to come if this is the only course the U.S. is willing to pursue.

Last year, for the first time, the U.S., Russia, the UK, France, Poland, East Germany, and some of the other countries with overseas fishing fleets (not Japan), agreed to the "concept" of a 200 mile economic coastal zone. This action for the first time established a common ground on which the Delegations at the Conference could meet and, perhaps, negotiate Treaty Articles for the Zone. The differences among the nations as mentioned above are quite wide, and little progress was made on this issue.

In my view, the introduction of S. 1988 and the companion Bills in the House and the subsequent holding of hearings on these Bills in Washington and in widely scattered coastal areas throughout the U.S. have had a most significant bearing on the acceptance of the 200 mile economic zone concept by the

U.S. and the other nations referred to above at the Caracas Conference last summer. The problem now is to provide further incentive that will cause the Conference to go forward and spell out an acceptable set of Articles that a large majority of the nations can agree upon and which will provide a workable set of rules for all nations with respect to the oceans. I strongly believe the passage of S. 1988 would have an important bearing on accomplishing this objective. Without its passage the stalemate at the Law of the Sea Conference most likely will continue. In the meantime, the fishing pressure from the large fishing fleets will continue off our shores, thus precluding any relief for the rebuilding of those coastal fish stocks already depleted or seriously damaged, and allow depletion of other stocks that remain.

Finally, our group feels that S. 1988 applies solely to fisheries jurisdiction, as did S. 2218, the legislation passed in 1966, which unilaterly established a contiguous fishery zone of 9 miles beyond the Territorial Sea. We do not recall any adverse repercussion from the passage of that legislation, either from a military or defense standpoint, or from any other. We, therefore, do not understand why the Departments of State and Defense take the position they do about the adverse impact the passage of S. 1988 would have on U.S. relations and defense.

Respectfully submitted.

Sincerely yours,

J. STEELE CULBERTSON, *Director.*

Enclosure.

THE MENHADEN FISHERY AND INDUSTRY

The menhaden industry has a history of more than 100 years. The fishery extends along the Atlantic and Gulf Coasts from Maine to Texas. It provides direct employment for approximate 6,000 fishermen and shoreside workers and is the only major segment of the U.S. fishing industry whose fishermen and plant employees are mostly blacks. In addition to the direct employment, the fishery generates employment for thousands of additional workers in the shipyards and in other industries supplying nets, rope, fuel, transportation, vessel and plant equipment, etc.

The menhaden itself is a herring like fish but it is so bony and oily that it is not desirable as an edible species. Instead, it is processed into fish meal, fish oil and condensed fish solubles. The fish meal and condensed fish solubles are high quality animal proteins that are used as ingredients in the manufacture of poultry and animal feeds. Menhaden fish oil constitutes one of the U.S. most important fishery export item, mostly to Europe, where it is manufactured into margarines and shortenings.

TUNA RESEARCH FOUNDATION INC.,
Terminal Island, Calif., October 25, 1974.

Senator JOHN C. STENNIS,
Chairman, Senate Committee on Armed Services, Senate Office Building, Washington, D.C.

DEAR SENATOR STENNIS: Mr. Charles R. Carry testified before the Committee on Armed Services in Washington, D.C. on Friday, October 11, 1974 in reference to S. 1988. In addition, he submitted a supplemental statement on October 17, 1974 regarding this matter of extreme interest to our tuna industry.

Mr. Carry has requested that I contact you and request to have placed in the record of those hearings, if possible, the enclosed copy of the report entitled, "The Potential Economic Impact of a 200-Mile Fishery Zone on the United States Fisheries for Tuna, Shrimp and Salmon".

We would appreciate any consideration you may give us in this regard.

Sincerely yours,

DOYLE E. GATES,
Assistant Executive Director.

Enclosure.

Senator MCINTYRE. If there are any other witnesses here that were hoping to testify, I am sorry, we will take your written testimony. If not, we will accept statements on this issue, S. 1988, until October 18.

The committee meeting is adjourned.

[Whereupon, at 12:30 p.m., the committee adjourned.]

THE POTENTIAL ECONOMIC IMPACT OF A 200-MILE FISHERY ZONE ON THE UNITED STATES FISHERIES FOR TUNA, SHRIMP AND SALMON

Gordon C. Broadhead and
Charles J. Peckham

INTRODUCTION

The United States tuna fleet takes about 90 percent of its catch in waters off foreign shores. It is the industry view that declaration of a 200-mile zone by the United States would terminate these fishing activities as they exist today. Countries off whose shores tuna are found may be expected to follow the United States lead and the result will be the creation of a series of national lakes through which the tuna move indiscriminately. This would seriously disrupt the United States fishing and processing operations and the entire industry infrastructure. The present international conservation and management regimes in the eastern Pacific and Atlantic will be threatened.

The United States distant-water shrimp catch represents about one-sixth of the total value of the United States shrimp landings and about one-quarter of the value of the United States harvest from the Gulf of Mexico and contiguous fishing areas. The shrimp industry believes that declaration of a 200-mile zone by the United States would weaken seriously the present arrangements which permit United States vessels access to these distant water resources. If the distant-water fleet was required to return to the United States Gulf of Mexico grounds, where the shrimp stocks are utilized fully, a serious overexploitation problem could develop rapidly. This would have a direct and disastrous economic impact on the entire industry.

The United States salmon industry is concerned that a declaration of a 200-mile zone by the United States would place the present north Pacific salmon management system in serious jeopardy, endanger the resources and reduce substantially the United States catches of salmon. A 200-mile zone does not protect adequately the United States salmon stocks.

The potential catch of salmon by the present Japanese high seas fleet operating in the Gulf of Alaska beyond 200 miles during April, May and early June, could reach 23.5 million fish, valued at $105.8 million based on 1973 price levels. Two-thirds of these fish would be of United States and the remainder of Canadian origin. Under the present International North Pacific Fisheries Convention, Japanese fishermen take about 3.5 million salmon of North American origin annually.

Thus, the three major United States domestic fisheries, tuna, salmon and shrimp, in the opinion of knowledgeable industry representatives, will be seriously impacted by the extension of United States fisheries jurisdiction to 200 miles. These industries are the perennial leaders in total value among all United States domestic fisheries, and during 1973 returned a combined value of $480 million to United States fishermen; *53 percent of the total value of all United States production.* More importantly, tuna and shrimp provide the rare examples among the major world fisheries where the United States has a clear lead in fishing, processing and marketing technology.

United States fisheries have the image of an obsolete group of small vessels manned by an old and fading group of fishermen. In the case of tuna and shrimp nothing could be further from the truth. Our modern fleet of tuna seiners represents an efficient and prestigious element in world fishing circles unmatched by the Soviets, Japan or any of the other major fishing nations and our shrimp vessel designs set world standards for that type of gear.

United States consumers constitute the major world market for tuna, salmon and shrimp products and any major reduction in domestic supplies of these commodities will have a serious secondary impact upon

Prepared at the direction
of Tuna Research Foundation
June, 1974

supporting industries and place a heavy cost burden upon the United States consumers.

The following study was prepared to provide an economic yardstick, wherever data was available, of the value of these major fishing industries at three levels: the vessels and their supporting infrastructure, the processors and their allied suppliers and the United States consumer who ultimately provides the economic support for the total system.

TUNA

The United States tuna industry is a large, healthy and growing segment of the United States economy. The general well being of an industry often can be measured by the flow of capital into its various component parts. Tuna vessels presently represent over 30 percent of the total replacement value of the entire United States fishing fleet. More importantly, tuna represents a major growth industry. A recent study of financing and the United States fisheries indicated that during 1972, 53 percent of all the dollars expended for new fishing vessels went into tuna operations. A similar percentage was indicated for 1973. Thus, during the past two years, the tuna industry has accounted for more than 50 percent of the dollar flow in fishing vessel construction in the United States.

At present construction costs, the United States tuna fleet has a replacement value of just under $500 million, partitioned by area and type of operation as shown in Table 1.

That year, United States shipyards constructed an estimated $72.5 million worth of tuna vessels ($66.1 million domestic and $6.4 million for export). Of this total revenue, about $36.0 million went to direct and indirect labor and social benefits for employees of the yards and their subcontractors. An additional $6.4 million went to suppliers of steel, $4.9 million to main engine manufacturers, $5.1 million to net and fishing gear suppliers and $8.0 million to suppliers of power blocks, winches, hydraulics, refrigeration units, electronics, auxiliary engines and generator equipment.

Based upon the present firm orders in United States yards, this level of tuna vessel construction is forecast to continue through 1976 and will add more than $200 million in modern vessels to the fleet during this period.

In 1973, the United States tuna fleet landed 543

Table 1

Replacement Value of United States Tuna Fleet as of December, 1973

At Present Construction Costs (April, 1974) $499,500,000

Area	*Long-Range*	*Short Range*
U.S. West Coast	$211,000,000	$140,000,000
Puerto Rico	143,000,000	—
Hawaii	—	3,500,000
U.S. East Coast	—	2,000,000

During 1973 alone (Table 2) there were 73 tuna vessels, with a value of $66.1 million added to the fleet.

Table 2

Number, Type and Value of United States Tuna Fleet Additions 1973

Type	*Number*	*Value*
Purse-Seiners	18	$57,600,000
Baitboats	15	5,300,000
Trollers	40	3,200,000
	73	$66,100,000

million pounds of tuna (including bonito), worth $135 million at the dock. Some $14 million of this went to the albacore fleet and the remainder to the tropical tuna vessels. These latter vessels fished almost entirely off foreign shores in national and international waters. A major share, about $65 million, of the total dollars went for crew wages and bonuses. Most of these dollars flowed into the economy of southern California, where many of the fishermen and their families reside. In addition, a myriad of manufacturing and supply and service firms shared in the fleet revenue. Many fuel docks in San Diego, San Pedro, Ponce, Mayaguez and San Juan shared most of the $11 million the fleet expended for fuel during 1973. Some ten shipyards shared nearly $10 million in maintenance and repair support to the fleet, in addition to $72.5 million in new vessel construction.

Many small provisioners shared the $5.4 million spent by the fleet for food during 1973. In addition, the fleet spent more than $2 million on fishing gear, equipment and supplies during the year. Insurance firms received about $8 million in premiums for hull, protection and indemnity and cargo insurance. This coverage was shared among many agents and reinsurers throughout the country.

Lending institutions: commercial banks, insurance companies, finance companies and leasing companies received an estimated $17.5 million in interest, rentals and service charges from the vessel owners during 1973. In all, an impressive number of people and jobs are directly related to the tuna fleet or their customers who comprise the primary support elements. The industry survey has indicated that the tuna fleet provided direct employment for about 6,800 people with a payroll of about $65 million during 1973. In addition, shore support for the fleet, shipyard employees and their subcontractors provided about 5,000 additional jobs and a payroll of approximately $48 million last year.

Economists project that each dollar of primary industry income results in fivefold impact on our nation's economy. Thus, in 1973 the tuna fleet support of $135 million, combined with the new construction of $72.5 million, a total of $207.5 million, had an impact of over $1 billion (multiple of five) on the United States economy. Obviously, the new construction portion of this figure cannot be expected to continue indefinitely (although a sustained rate through 1976 is anticipated), but the fleet operations, which comprise two-thirds of the total dollar volume represent a rapidly expanding economic base.

During 1973, the United States tuna processing industry packed $714.5 million (at processor level) of canned tuna, in addition to $33.4 million of tuna petfood products and $23.0 million of tuna fish meal, oil and solubles. The mere existence of the tuna industry provides the opportunity for these latter operations as they would otherwise not be viable.

To process this volume, the industry has made major capital investments in tuna processing machinery, equipment and infrastructure. One large new processing plant was constructed in 1971 in Puerto Rico at a cost of $10 million and a total of $30 million is projected for investment in two new facilities at San Diego and American Samoa by 1975. Recent construction and engineering projections for the two new facilities indicate that a tuna cannery and support facilities require about $75,000 of capital investment for each ton of canning capacity per eight hour day of operation.

Currently the tuna industry has plant capacity to process about 3,650 tons of raw material per day on a one-shift basis. Thus, replacement value of all the United States tuna canning and support facilities can be estimated at $274 million ($75,00 x 3,650). During 1973 the tuna processors spent $135 million for domestic-caught raw material. The transportation of import frozen tuna and the transshipment of domestic-caught fish via common carrier added substantially to the processing costs for canned tuna. Many nations share in the tuna export market to the United States. During 1973, 413,000 tons of import tuna and 8,000 tons of transshipped fish were delivered to United States canners at an average shipping cost of about $100 per ton and a total cost of about $42 million.

The tuna processing plants employed a total of about 16,000 people in administrative and factory tasks during 1973. Total payroll was in excess of $90 million and provided economic support for San Diego, San Pedro-Los Angeles harbor areas; Ponce and Mayaguez, Puerto Rico; American Samoa; Honolulu; Astoria, Oregon and Cambridge, Maryland. During 1973, the tuna processing industry spent about $58 million for cans for tuna and petfood and an additional $12 million for labels, cartons and vegetable oil.

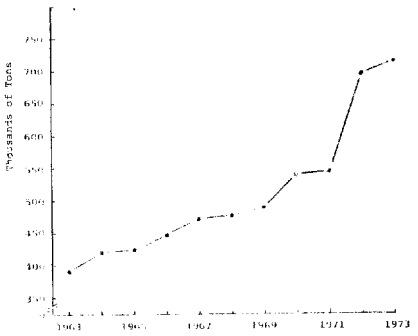
Processors in American Samoa depend largely upon supplies of tuna from Korean and Taiwanese longline

vessels fishing the south Pacific grounds. Figure 1 indicates that a major portion of the south Pacific tuna grounds would be encompassed by 200-mile zones around the many island areas. Enforcement of the fishing rights could eliminate this fishery or substantially raise operational costs and ultimately prices for raw material. In American Samoa, the tuna industry and support industries provide the major labor base for the area, aside from civil service, so that disruption of fishing in the south Pacific could result in job losses and/or increased costs to be passed along to the United States consumer.

The United States consumed 50 percent of the world supply of tuna during 1973 (Figure 2) and the

FIGURE 2

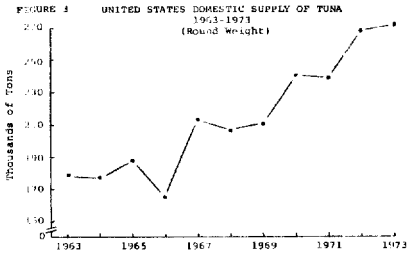
UNITED STATES MARKET DEMAND FOR TUNA
1963-1973
(Round Weight)



market has sustained a six percent volume and a 13 percent value growth rate during the past ten years. The retail value of United States canned tuna usage during 1973 was in excess of $1 billion. Projection of the historic rate of annual growth of 15 percent in dollar value results in an estimated retail value of canned tuna in the United States of $1.78 billion by 1978 and $3.66 billion by 1983.

Domestic fishing activities have expanded rapidly (Figure 3) and maintained a 40 percent share of the United States market for canned tuna. The United States is not self-sufficient in raw material for canning, nor can it ever hope to be. However, the flow of domestic fish provides an efficient mechanism to

FIGURE 3 UNITED STATES DOMESTIC SUPPLY OF TUNA
1963-1973
(Round Weight)

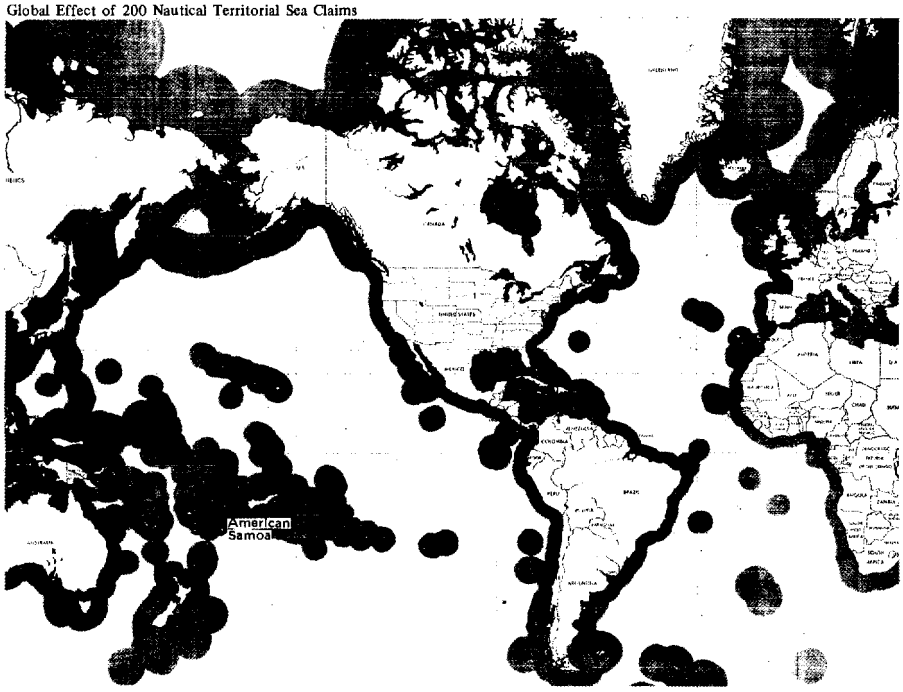


moderate the price demands by foreign producers for frozen tuna. A rough parallel may be drawn between the need to control energy supplies and the need to control our sources of raw tuna. If the United States tuna fishing fleet is crippled economically and/or owners are forced to sell their vessels to foreign interests, raw tuna prices may escalate to multiples recently experienced in the oil industry. Such a rise could result in an additional price tag of one or two billion dollars per year to the American consumer *on a continuing basis.*

A less drastic outcome than loss of the United States tuna production capability would be a sharp increase in the costs of vessel operation as a result of establishment of 200-mile fishing zones. First, additional running time for United States vessels under a 200-mile concept for Pacific coast countries (see Figure 1) will result in substantial increase in fuel usage and loss of fishing time. Fuel, an $11 million fleet expense item in 1973, will increase to over $20 million during 1974 as the result of fuel price increases. Even more costly, however, could be the loss of fishing time and productivity due to increased travel.

Second, the present operational pattern of fishing, by geographic areas and season is the result of fleet experience concerning the productivity of the fishing grounds. Division of the oceans into a series of private national lakes will disrupt efficient fishing patterns for the United States vessels and many foreign vessels, thus reducing fishing efficiency, while increasing operating costs. Tuna fishing is a highly leveraged enterprise, with major fixed expenses (fuel, food, maintenance, repair, insurance and financing), which are little related to catches. Thus, any reduction in the yearly volume of tuna captured per vessel has a multiple effect upon the cost per ton of production.

FIGURE 1
Global Effect of 200 Nautical Territorial Sea Claims



Third, if foreign countries license vessels to fish within their 200-mile zone, fees will add sharply to vessel operating costs. In the past, license fees have been a minor cost item as most vessels, on the advice of the United States Department of State, have not purchased licenses to operate in waters beyond 12 miles of foreign shores. The United States fleet operates in international waters off the shores of more than 25 nations bordering the eastern Pacific and Atlantic tuna grounds. A single vessel may enter ten or more of these 200-mile zones yearly. Ecuadorian license fees to fish in the 200-mile zone are about $55,000 per trip for an 1,100 ton seiner. Recognition of the 200-mile zone by the United States could add $100,000–$200,000 in operating costs per vessel, per year and make license fees equal to fuel costs, the *single largest operating expense* aside from crew salaries.

The tuna industry provided direct employment for about 28,000 people and a total payroll in excess of $200 million during 1973 as illustrated in Table 3.

Table 3

Employment and payroll for the U.S. tuna industry, 1973.

Area	*Employment*	*Payroll*
Fishing fleet	6800	$ 65,000,000
Processing Plants	16000	90,000,000
Shipyards	5000	48,000,000
	27800	$203,000,000

The initial economic impact of a 200-mile zone will be upon vessel crewmen. Although highly skilled, they are specialized and for the most part, cannot adapt readily to shore occupations. Those engaged in fleet support activities will also be affected immediately as there will be a reduction in business volume in these industries.

There is intense competition for the world surface tuna resources. Presently, the United States has a major lead in purse-seine vessel construction and fishing technology. About 90 percent of the United States tuna catches are made off foreign shores. Recently, many of these countries have accelerated their interest in tuna fishing. Mexico, Ecuador, Cuba, France, Spain and Japan have publicly announced programs for major expansion of their surface tuna fishing fleets. During 1973, eight United States tuna vessels, valued at about $4 million, were sold to foreign interests. All but one of these vessels were of the smaller and older type which cannot compete, under United States flag, with the new super-seiners.

Loss of the United States domestic fleet could cause broad changes in the flow of raw material to the processing plants. The extent of the resulting economic dislocation cannot be assessed at this time, but certainly the fallout would be unfavorable to the industry and its entire economic and social base.

Limitations in access to straits or free passage for merchant ships, which result from a 200-mile regime, could add substantially to transportation costs. Foreign flag vessels are not permitted to unload in the continental United States, Puerto Rico or Hawaii. Therefore, loss of the United States fleet to foreign interests would increase the tonnage of imported frozen tuna required to meet United States needs, add to processing costs and adversely affect United States foreign exchange.

SHRIMP

The United States shrimp industry has grown steadily for the past two decades and is second only to tuna (in recent years), among all United States fishing elements, in the volume of capital flowing into fishing and processing units.

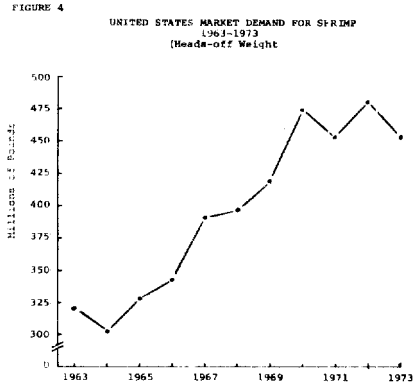
During 1973, the United States shrimp fleet landed 372 million pounds of raw material valued at $219 million to the fishermen. Thus, the economic impact of the United States shrimp industry exceeds $1 billion annually (multiple of five). Gulf of Mexico and foreign port landings, taken in international waters off foreign shores, totaled 37 million pounds, valued at $41 million.

A 1972 survey estimated the replacement value of United States shrimp fishing vessels at $320 million, with new construction during that year being valued at $25 million. This represented about 30 percent of the value of all fishing vessels added to the United States fleet that year. Vessel construction continued during 1973 at this rapid rate. An additional 100 shrimp vessels, with a value of $15 million were exported in each of these years. The United States shipbuilding industry is competitive on the world market as the result of construction techniques and the production line economies which result from the high volume of domestic and export orders.

During 1969, the most recent year for which official statistics are available, there were 4,478 vessels (over five gross tons) and 11,399 fishermen engaged in the Atlantic, Pacific and Gulf of Mexico shrimp fishery. Since 1969, it is estimated that the net additions to the fleet have been about 500 vessels and 1,250 fishermen, bringing the total vessels to approximately 5,000 and employment to about 12,600 fishermen.

The United States is the major world market for shrimp products. Domestic and import supplies rose steadily until 1972 to meet the growth in demand. Since then, total volume has temporarily leveled off in the 450 to 485 million pound (heads-off weight) range (Figure 4). During 1973, United States supplies of

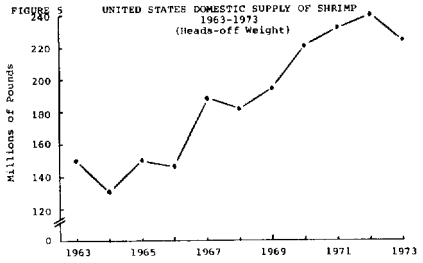
FIGURE 4



shrimp totaled 450 million pounds, valued at approximately $500 million.

If the upward trend in value during the past ten years continues, the total value of supplies in 1978 and 1983 will total $640 million and $815 million, respectively. Domestic supplies of shrimp provide about 50 percent of market needs (Figure 5). At the

FIGURE 5 UNITED STATES DOMESTIC SUPPLY OF SHRIMP 1963-1973 (Heads-off Weight)



retail and institutional levels (most usage is in the latter) the 1972 value was estimated to be $792 million. Despite a modest volume decline in 1973, the sharp price increases raised the 1973 value to over $900 million.

Any major reduction in United States domestic catches are certain to affect consumer costs and to have an adverse impact upon United States foreign exchange.

SALMON

The United States salmon industry, due to resource limitations, has not shown the dynamic growth of either tuna or shrimp. However, salmon fishing, processing and marketing make a substantial contribution to the United States economy.

The static nature of the United States salmon fishing industry is reflected in the modest flow of capital into new fishing craft in recent years. However, the fleet of gill net, seine, set net, tender and troller vessels (22,000 + units in 1969) has a replacement value in excess of $400 million.

In 1973, the United States salmon fleet landed 213 million pounds of fish, which was one of the smallest catches on record. Total value at the dock was $125 million, up substantially from recent years due to the high unit prices paid to the fishermen. The canning industry packed 1.4 million cases, having a value of $117 million at the processor level, fresh and frozen exports totaled 60 million pounds valued at $60 million and United States domestic consumption accounted for about 47 million pounds, valued at $47 million.

The salmon processing industry has major capital investments. An industry survey in late 1973 of 82 plants in Alaska, Washington, Oregon and California indicated a total replacement value of $191 million for cannery facilities and support operations. The cyclical nature of salmon runs result in substantial year-to-year variations in the volume of landings and the number of people engaged in fishing and processing operations. These operations employ about 7,700 people, many of whom depend upon the seasonal salmon operations for a major share of their income. The fleet operations provide seasonal employment for about 48,000 fishermen.

Salmon fishing provides major recreational activity for sportsmen in northern California, the Pacific Northwest and Alaska. In 1971, the catch was estimated at 2,165,000 fish valued at $65 million ($30 per fish).

SUMMARY

The tuna, shrimp and salmon industries represent over half of the total value of all United States domestic seafood production. The economic impact of these fisheries on the United States economy is in excess of three billion dollars annually. The replacement value of these fleets approach 70 percent of the value of all United States fishing vessels. Further, during the past two years, the new vessel construction value in these fisheries represented about 90 percent of the value of all fishing vessel construction in the United States. In addition, tuna and shrimp vessels have a substantial export market and United States is the recognized world leader in the technology of tuna seining and shrimp dragging.

The three fisheries provide employment on a year around and seasonal basis to more than 66,000 fishermen each year. Many of these people are highly skilled at fishing but could not adapt readily to shore occupations. The fleet infrastructure is composed of a network of manufacturing and service businesses.

The replacement value of United States tuna and salmon processing facilities are valued at $465 million. Administrative and factory employment in these

industries is about 24,000 people.

The United States is the major world market for tuna, shrimp and salmon products. The flow of domestic catches to the processing industry provides a check on the prices for foreign produced raw material. Any serious reduction in United States domestic supplies would require increased volumes of imports and could result in a multi-billion dollar adverse impact upon foreign trade and food costs to the United States consumer.

This report is not designed to minimize the plight of certain segments of the United States fishing industry. The dominance of the economic statistics for tuna, shrimp and salmon only accentuate the depressed state of many of the other fisheries. These areas require both protection from resource depletion and financial assistance as a catalyst to develop economically viable fishing operations. However, the trade-off of all or portions of the United States fishing industry in an attempt to revive others is neither a sound economic nor social solution.

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