

Acceptability to the Fishing Industry of the Current U.S. Position on Fisheries Article III – Law of the Sea Conference – 1973

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There is an erroneous concept that because U.S. fisheries are fragmented and far-flung there is difficulty in reaching inter-segment agreement and in speaking with one tongue. Seamen are “wards of the admiralty”, but fishermen are the step-children of government. They are simple and wise enough to recognize this fact, so whenever a fisherman opens his mouth to protest, he uses the loudest voice possible, and, on the slightest pretext, consults or advises his congressman and any and all bureaucrats in Washington agencies as to where true justice lies.

Fisheries are far-flung, and in many fisheries there are no really large corporate interests, but only a group of struggling individuals who have wisely learned to form associations and to cling together for their common welfare. For example, we have the inter-state compacts, the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission and the Pacific States Marine Fisheries Commission, covering in total some 21 states. Each segment of fisheries appears to have a trade organization, such as the one I represent, the National Shrimp Congress. There are spokesmen for industry and for labor. The most current effective fishery organization that I know is the National Fisheries Policy Conference which has no home address or officers as such, but only a loose *steering committee* who rouse up necessary meetings when emergencies occur.

I wish to make clear that we are speaking of the men and the vessels who capture the fish under the United States flag. Importers and processors naturally may have different interests in fish and fish products.

I am also happy to report to you that there was a recent meeting in Washington, D.C. of the National Fisheries Policy Conference, well attended by representatives of many fisheries, and the first conclusion reached is as follows (quote):

“It was agreed that the U.S. official position, submitted in Geneva in 1971, was not in the best interest of the industry.”

A difficulty arises primarily in attempting to reconcile the interests of four major segments of the U.S. fisheries, namely, pelagic, anadromous, coastal and distant fisheries. The latter involves tuna and shrimp, but even here the interests are diverse, as tuna can be saved through the U.S. position which advocates international regimes, while on the contrary, shrimp become involved with the increasing creeping jurisdiction of coastal states which would greatly hamper U.S. flag shrimp fishing in the Gulf of Mexico, Caribbean and South Atlantic.

There is a similarity in proposals advanced at Geneva by the U.S. (trustee zone) and Mexico (agent for the international community under a “management” concept) which softens the hard “ownership of the coastal zone” concept, by attempting to provide a device to allow some foreign fishing. This

observer believes that while the new international concept of a contiguous fishing zone is not unacceptable to the defense element of our government, still that department must be constrained to view with alarm the inclusion in such contiguous zones of all the principal elements of sovereignty which make up into the definition of *territorial sea*. Defense wants as small a territorial sea as possible, the narrowest now is 12 miles, and defense is willing to trade away any and all fish to gain that objective.

Informed fisheries people say, with what, in my opinion, is correct appraisal, that representatives of fisheries have been at the international game for a very long time, by the very nature of fishing, and that some of the decisions at high government levels do not realistically take into consideration the fisheries reaction that is sure to come from other nations and influence their votes at Geneva for fisheries rather than defense reasons. Fisheries do not seek to make defense decisions, but only to be heard in the inner circles of government, to advise at critical times as to the effect of proposals tabled, both with regard to domestic fisheries and with regard to the reaction of foreign governments. As of this moment, Government has denied fisheries representatives access to this inner council, to which traditionally they have belonged, and fisheries representatives now sit in the balcony at Geneva and know only what is said on the floor of the conference. To assess a situation properly, a representative must have access to all classified position papers and documents.

For many years the representatives of U.S. fisheries have known that a new conference on Law of the Sea was coming. For at least the last 3 years, the group which acts in an advisory capacity to the Department of State has been meeting and discussing the many problems involved. At a recent meeting of all the major fisheries at the University of Rhode Island Law of the Sea Session, in June 1971, most of the major fisheries or areas came forward with concrete proposals, each of which sought to safeguard the interests of the proponent, but at the same time, as sympathetically as possible, offer solutions for the other U.S. fisheries. I have made a comparative table of these various proposals which is attached to this paper as an exhibit. Subsequent to that meeting in Rhode Island in June (1971), representatives of tuna, shrimp and salmon met in Los Angeles, and prepared a joint statement which reflected livable positions for these three giants of the U.S. fisheries, whose total production in dollars represents over 60% of the total U.S. flag production. All of these papers were presented to our Government, so the decisions made in Washington were knowingly made and consciously prevented any proper and viable fishery policy from being made, but rather, as evident from the face of the U.S. proposal at Geneva, tacked on an appendage titled "Article III" to serve as trade goods at the Council table for the gaining of objectives of Articles I and II.

This observer predicts that unless the true significance and importance of a U.S. position on fisheries emerges, the presently planned tactic is foredoomed to fail, as did the package deal offered in 1960 at Geneva. Further, we cannot even muster the percentage of votes which were found in 1960. Peru has not only surpassed us at fishing, they are ahead on diplomacy and international tactics.

What deeply concerns the domestic fisheries goes beyond this coming Law of the Sea Conference. There is a feeling that if we should be so lucky as to win even some minor advantages while bargaining, the later practical application of measures internationally will still not favor U.S. fishermen. This is a type of persecution complex, but the feeling is deep seated and appears rooted in the credibility gap which now exists between fisheries and Government.

Resume of Recent Fishing Industry Proposals Regarding National Fisheries Policy

		Category of Industry Representative			
Negotiable Issue	National Fisheries Institute	New England (also W. C. Herrington)	Lokken	San Francisco	Menhaden
Coastal state waters	Vested interest in all fish resources "off its shores", exclusive right to 80% of all coastal species.	Fish and shellfish indigenous to coastal waters property of coastal state. W.C.H. preferential right of harvest.	Fish and shellfish associated with continental shelf and slope except underharvested species. Jurisdiction to outer edge of slope	Dependent on shelf and slope for reproduction and/or survival during major part of life.	Shelf and slope and other waters to 200 miles.
Anadromous species	Exclusive use of 100% of species.	Belong to state of origin. MCH grazing fee to other states where fish graze.	Property coastal state	If harvestable elsewhere, participating states must work out rules and allocate share of catch.	Joint arrangements if found elsewhere at harvestable stage. "Other migratory" to be reserved to coastal state or joint control by adjacent states.
Pelagic fish	Coastal state has right to participate if party to treaties covering species	Control by international body, plus user. If in coastal water include coastal state	"High Seas Species" Multinational control by participants and by coastal state where participation in catch practicable	Multinational control by harvesting countries plus those whose coasts border fish stocks	International agreement by fishing states and coastal state off whose shores stocks are found and harvested.
Under-utilized species	Coastal state duty to develop all fish resources to maximum sustainable yield. Recognize historic rights. Licensing to 8% of value of catch	Provide for harvesting by others... Licensing. MCH regulation by coastal state, phased out in 10 years	Other states may harvest where no interference with other species. Non-discriminatory rules by coastal state. Non-punitive license fees.	Other nations may harvest subject to license and control by coastal state.	Licensing to 8%. Control by coastal state. No interference existing fisheries. Consult participating state regarding conservation.
Territorial sea	Exclusive jurisdiction, twelve miles		Twelve miles		
Arbitration	Must submit scientific findings to arbitration				"Consult other state"

In closing, I quote the National Fisheries Policy Conference letter of October 5, 1971, to the President of the United States:

NATIONAL FISHERIES POLICY CONFERENCE

133 20th STREET, N.W. WASHINGTON, D.C. 20036 AREA CODE 202/338 2630

October 5, 1971

The President
The White House
Washington, D. C.

Mr. President:

This year the commercial fishing industry will commemorate one hundred years of fisheries conservation.

From our point of view, there is little to celebrate.

In fact, if drastic action is not taken before the 1973 United Nations Law of the Sea Conference, there will not be another centennial or a fishing industry left to celebrate it.

In 1973 the U. N. will meet to decide how the resources of the sea are to be managed. If the total lack of concern for the domestic fisheries expressed in the past and at the recent preparatory session in Geneva is any indication, the U. S. position will be based on the mistaken conclusion that certain objectives can be achieved by sacrificing our fisheries. For this reason, the very existence of this basic food industry depends on a change in U. S. policy which recognizes the critical needs of our fisheries.

In connection with any future planning sessions and the Conference itself, fishing industry participation is imperative. Further, we are concerned that decisions which could mean the life or death of our industry are being made with little consideration for their far-reaching consequences.

Clearly there is a need for your re-evaluation of this matter of our representation and its impact on the U. S. position on Law of the Sea. We, therefore, appeal to you for your support in this endeavor to protect the right of American citizens to continue to reap the renewable harvest of a protein-rich sea.

Sincerely,



Robert D. Nordstrom, Chairman
for:

Theodore Bugas
Charles Carry
Steele Culbertson
Jacob Dykstra
August Felando
Harold Lokken
William Neblett
Anthony Nizetich
Jesse Orme
William Saletic
George Steele
William Utz
Lowell Wakefield
Lee Weddig
Walter Yonker

Bumble Bee Seafoods
Tuna Research Foundation
National Fish Meal & Oil Association
Point Judith Fishermen's Cooperative
American Tunaboat Association
Fishing Vessel Owners Association
National Shrimp Congress
Star-Kist Foods, Inc.
Fishermen's Marketing Assn. of Wash., Inc.
Seiners Association
American Tunaboat Association
American Shrimphoat Association
Wakefield Fisheries
National Fisheries Institute
Association of Pacific Fisheries