

Prerequisites for Domestic Management and Conservation

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The United States has, in the past, been involved not only in international management attempts, but also in domestic management attempts. Rarely have these attempts been really successful.

The necessity for fisheries management, then, is not new. Both commercial and sports fishermen have begun to acknowledge this necessity, in some cases seen it increase—and in others, tried to ignore it in the hope that it would go away. It won't. So partly because of the growing food shortage, partly because of the impact of the Law of the Sea Conference, and partly because of a mixture of other reasons, commercial and sports fishermen, environmentalists, local and state governments, Congress, the National Marine Fisheries Service, nationalists, and internationalists are all calling for management. There are as many different proposals as there are proponents and many of the proposals are politically unrealistic or practically unworkable.

As far as existing arrangements go, one can look at almost any multilateral fisheries commission and see pretty clearly that it isn't working—either to protect the stocks involved or to protect the livelihoods of fishermen who fish these stocks. It's a particular source of frustration to me that the Department of State and the National Oceanic and Atmospheric Administration keep pointing to how successful the International Commission for the Northwest Atlantic Fisheries (ICNAF) is when just in the last few weeks New England fishermen have seen flagrant violations of ICNAF agreements.

Both internationally and domestically, overcapitalization can—often does—mean reduced biological and economic yield. And domestically, lack of agreement among states on how they should manage shared stocks is a serious problem.

As I said, many have recently become aware of this problem, some have tried to provide legislation to counteract it: the Law of the Sea Conference, of course, as well as the Magnuson/Studds 200-mile interim fisheries management bill, both in its original and amended versions; the Sullivan/Dingell bill (HR 15619/S 3783); the High Seas Fisheries Conservation bill (HR 4760); and the National Federation of Fishermen's Management bill, a draft which owes a clear debt to a University of Miami seminar which produced a piece of draft legislation that I submitted in my testimony opposing HR 4760 in May 1973. All these current efforts reflect thinking and work which, I emphasize, has been going on for some time.

Let me discuss some of the prerequisites for sound management of both do-

mestic and foreign fishermen and of U.S. coastal stocks and evaluate how well these alternatives I've mentioned fulfill those prerequisites.

First, it is a waste of money, time, and effort, to my mind, to try to manage a resource over which you haven't got clear-cut control. Therefore, to manage U.S. coastal stocks, we need an extended fisheries management zone. We need it *now*, through interim action. You heard Mr. Moore yesterday acknowledge that the Law of the Sea Conference may well go into 1976. To take interim action would be in line with the international reality: Over 100 nations at the UN Conference now acknowledge 200 nautical miles as the breadth for a coastal nation's resources management zone, and some of them have already declared their jurisdictions over that zone to one degree or another. As soon as the U.S. has control over both its coastal and anadromous stocks, we can determine what percentage of those stocks our fishermen can take, and what percentage we shall license others to take. Under the provisions of S 1988 [Sec. 2 (b)(1)] we could also act to conserve certain species beyond our interim 200-mile zone for fisheries jurisdiction. With clear-cut jurisdiction, we can enforce management and conservation regulations more thoroughly, and we can penalize violators—rescinding licenses and fining violators heavily are two possibilities. We need not drastically increase our Coast Guard fleet to enforce effectively, for we will be patrolling relatively few known fishing grounds, not a boundary line. We can also put vessel riders aboard the foreign fishing vessels we license to provide constant monitoring on what these vessels are taking—quite possibly in this way reducing both the number and the scale of violations by foreign fishermen.

Second, and very important, I urge all of you and others involved in fisheries not to go forward under the illusion that we are not going to have numerous and extensive measures designed to regulate the domestic commercial and sports fishermen. These will doubtless include limited entry—limited by effort limits or by catch quotas or by both as necessary. I think eventually, after some to-ing and fro-ing, both of these kinds of limits, in different combinations and permutations, perhaps, will come not from states operating independently, but from groups of states whose fishermen harvest the same stocks. One of the weaknesses both of current legislation and current policy is to deal either with one state or with the entire nation without considering that in fact, what the U.S. has is a series of several multi-state, regional fisheries.

Third, if management is really going to work fishermen must have input *from the beginning* in forming the policies and laws under which they will operate. One of HR 4760's greatest weaknesses is that it appears to most fishing industry people and to many state government people who've been exposed to it that it was a nightmare NMFS dreamed up completely without reference to or regard to those most directly involved. We in industry tried to make suggestions, but all NMFS seemed ready to do was change a semi-colon here, delete a phrase there. For this reason, among others, this bill is unacceptable to coastal fishermen.

The Sullivan/Dingell bill (HR 15619/S 3783) suffers from similar problems—including that of no real input from the fishermen who fish the stocks which it

proposes to manage. It was the product of people even more removed from the fishing industry than sometimes NMFS seems to be. It claims to provide a non-200-mile (but still unilateral) method by which to conserve the U.S. coastal fisheries, so it is particularly interesting that its most ardent supporters are the *distant water* shrimp and tuna industries and the Department of State. This proposed legislation builds on Article 7 of the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas and on assorted other legislative oddments. By basing this legislation on an existing treaty, its supporters are apparently seeking to give it a base in customary international law. But there are two flaws in this approach: first, the 1958 Geneva Convention is so weak it has never been used, and it seems a little silly to try to use it now; and second, Articles 9 and 10 make Article 7 of marginal usefulness for any rapid action to protect threatened stocks.

The kind of management legislation the fishermen I represent would like to see is more along the lines of the National Federation of Fishermen's "Fisheries Management Act of 1974." Some of our people took HR 4760, jacked up the title (and changed it a bit) and redrafted the bill to include substantial input from commercial and sports fishermen throughout the political and legislative processes leading to fisheries management. Probably the most significant difference between NFF's hybrid draft and the University of Miami draft is that in the NFF version, the fishing industry does not have veto power over government decisions affecting the fishing industry.

Almost daily we see the need for sound domestic fisheries management. Some fishermen don't like the idea, but very few will deny that it is necessary in certain fisheries. Our concern is that whatever management legislation evolves should include: (1) a clearly-defined zone of U.S. management responsibility — presumably 200 miles — for a zone is the easiest to enforce effectively; (2) management programs with the necessary regional variations, not a broad, something-for-everyone approach; and (3) provisions for substantive — not the current, largely cosmetic — input from those whom the legislation will affect, among which are both commercial and sports fishermen and state government people.