

The Status of Extended Jurisdiction over Our Fishery Resources

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We are in the midst of highly complex international and national negotiations about extended jurisdiction and the management of the fishery resources. I can follow the action best by relating it to fundamentals and, therefore, I shall discuss briefly the major trends even though some of you may be familiar with them.

The first of the trends is the change in the world's fisheries. Prior to the present century, the world's fishing was largely confined to sailing ships which worked in coastal waters, although there were a few which crossed oceans in search of whales or fish for salting. With the development of powered ships and refrigeration systems, the vessels became much more effective, and after World War II the fishermen of the world began intensively to expand their operations. They developed vessels that could fish in any ocean and bring the catch home in good condition. In a few fisheries they developed equipment that could catch 1,000 tons or more of fish per-man-per-year. They built large fleets of these vessels and, following 1950, the world catch doubled about every 11 years, to reach a level of 70,000,000 tons in the early 1970s. Now many nations are capable of large scale fishing off the coasts of other countries.

Along with the recent development of the fisheries came a development of the ocean sciences related to managing the fisheries. The scientists learned to assess the condition of the stocks, and with reasonable accuracy, to predict the effects on the stocks of alternative fishing practices and environmental changes. Now techniques are widely available which give people hope that social goals can be achieved by managing the fisheries.

These technical and scientific developments have not been followed by similar development of control of the fishing. That within the territorial seas of 3- to 12-miles width is clearly within the authority of the coastal country, but few countries, including the United States, have exercised adequate scientifically based control. The fishing on the resources outside the territorial sea has been essentially uncontrolled except in a few cases in which international treaties have been effective.

The consequence of the present fishing capabilities and the scanty control has been the collapse of several of the world's largest fish stocks and a situation in which most of the familiar fish stocks of the northern hemisphere are being fished to the limits of their productivity. More fishing cannot take more catch from these on a sustained basis and can cause them to collapse.

This situation is a major concern for the United States because we have, within 200 miles of our coasts, about 10% of the world's fish resources. The total catch in this area is about 6 million tons annually of which more than half is taken by foreign fishermen. Some of the stocks in this zone have collapsed and many are being fished close to the maximum sustainable catch. Most of the fishing is not under effective control.

The extension of authority of coastal countries in the oceans has undergone a slower change. For several centuries the accepted limit of sovereign authority was 3 miles but recently there have been numerous extensions of various kinds of authority. Most of these have been unilateral assertions of authority of as much as 200 miles. These complex issues of the use of the oceans have been discussed at three Law of the Sea Conferences sponsored by the United Nations.

The most recent conferences ended in May 1975 and produced a "single negotiating text." This text is not an agreement but represents a summary of the deliberations by the Chairman of the Committees. The fishery articles, in the opinion of many participants, are close to being agreeable to most countries.

The text has received extensive study and has been considered most carefully by our representatives in Congress who have used its provisions as a basis for the bills which would extend the jurisdiction of the United States over the fish resources and establish a fisheries management system for the country as a whole.

The single negotiating text includes some critical rights and responsibilities for coastal states.

Article 45. In the exclusive zone (200 miles) the coastal state has "sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether renewable or non-renewable, of the bed and subsoil and superjacent waters."

This very broad authority is constrained by some responsibilities in Articles 50 and 51. Some of these are: "The coastal state shall determine the allowable catch of the living resources in its exclusive economic zone.

"The coastal state, taking into account the best evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by overexploitation. . .

"The coastal state shall promote the objective of optimum utilization of the living resources in the exclusive economic zone. . .

"The coastal state shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal state does not have the capacity to harvest the entire allowable catch, it shall. . . give other states access to the surplus of the allowable catch.

"Available scientific information, catch and fishing efforts statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis. . . with. . . all states concerned.

"In granting access to other states to its exclusive economic zone under this article, the coastal state shall take into account all relevant factors, including. . . the significance of the renewable resources of the area to the economy of the

coastal state concerned and its other national interests. . .the requirements of developing countries. . .in harvesting part of the surplus, and the need to minimize economic dislocation in states whose nationals have habitually fished in the zone. . . .”

There are many other pertinent provisions but I believe it is clear that the coast state shall manage the coastal fishery resources on the basis of scientific evidence, and with full publication of the information concerning those resources.

The congressional action in bills HR 200, which has been passed by the House, and S 961, which has been passed by the Senate Committee, contains similar obligations in the form of standards which apply to the fishery. They are as follows from HR 200: (1) Management and conservation measures shall be based upon the best scientific biological information available. (2) To the extent possible, an individual stock of fish shall be managed throughout its range. (3) Management and conservation measures shall not discriminate between residents of different states. (4) Management and conservation measures shall be designed to achieve the optimum sustainable yield of a stock of fish on a continuing basis. (5) Management and conservation measures shall promote efficiency in harvesting techniques. (6) Management and conservation measures shall be formulated to allow for unpredicted variations in fishery resources and their environment and for possible delay in the application of such measures. (7) Management and conservation measures shall not result in unreasonable administration or enforcement costs. (8) Management and conservation measures shall be designed to prevent depletion of fisheries resources.

Both of these bills include provisions for the management of the fisheries with the major responsibilities for the development of management plans assigned to regional councils. Both bills establish seven such councils. Both bills provide for membership on the councils from states, interested public, and the federal government. Both bills provide for the implementation of fishery management plans by the federal government and by the states. Both bills protect the interest of the states with respect to management within the 3-mile zone.

There are differences between the two bills which time does not permit me to discuss here. You people who are interested will want to carefully examine them with respect to whether they provide for an effective working partnership of the states and federal government in the management of the fisheries, and communicate your views to members of Congress.

While Congress has been working on these bills, the administration has pointed out the difficulties and dangers of unilateral actions on the part of the United States. This was addressed by Secretary Kissinger in his speech before the American Bar Association in Montreal, on August 11, where he said, “Unilateral legislation on our part would almost surely prompt others to assert extreme claims of their own. Our ability to negotiate an acceptable international consensus on the economic zone would be jeopardized,” and “to conserve the fish and protect our fishing industry while the treaty is being negotiated, the United States will negotiate interim arrangements with other nations to conserve the fish stocks, to ensure effective enforcement, and to protect the livelihood of our

coastal fishermen. These agreements will be a transition to the eventual 200-mile zone." Such negotiations have begun at the meeting in September of the International Commission for the Northwest Atlantic Fisheries, and they will be continued in subsequent international meetings.

Many of you are aware that Mexico and Canada have been considering an extension of fisheries jurisdiction. The President of Mexico has, according to newspaper accounts, asked his Congress to prepare a declaration of a 200-mile zone, but the Government of Canada, despite growing pressure from the fishing industry, still insists that it would prefer international action to unilateral action.