


MEMORANDUM

TO: Council, SSC, and AP Members

FROM: Clarence G. Pautzke   
Executive Director

DATE: December 5, 1988

SUBJECT: Joint Venture Requests for 1989

ACTION REQUIRED

- A. Report on joint ventures in 1988.
- B. Evaluate joint venture requests by country and recommend any special conditions and restrictions on permits.
- C. Determine total JVP needs by species and area.
- D. Approve foreign permits for 1989.

BACKGROUND

A. Status of Joint Ventures in 1988

The total joint venture catch off Alaska through November 19 as reported by NMFS was 1,276,682 mt, which included the following species harvests in metric tons:

<u>Species</u>	<u>Bering Sea/Aleutians</u>	<u>Gulf of Alaska</u>
Pollock	809,680	151
Pacific cod	108,970	1,635
Flatfish	112,710	1,752
Yellowfin sole	205,625	--
Atka mackerel	19,639	--
Others	<u>16,340</u>	<u>180</u>
TOTAL	1,272,964	3,718

This year's catch to date exceeds the total joint venture harvests of 1,226,088 mt and 883,568 mt in 1986 and 1985, respectively, but is less than the joint venture harvest of 1,374,231 mt in 1987. The numbers of trawlers making deliveries each month are listed below. Table 1 shows company performance.

Number of U.S. Trawlers Making Joint Venture Deliveries

Year	Month											
	1	2	3	4	5	6	7	8	9	10	11	12
1984	24	56	50	42	32	63	66	57	57	21	14	4
1985	11	61	79	78	73	87	92	96	85	50	20	6
1986	3	64	79	92	88	95	99	102	92	78	28	11
1987	52	92	101	108	97	110	82	32	44	47	7	2
1988	118	119	113	120	124	113	28	7	70	65	22	

## B. Joint Venture Requests for 1989

The Council has received joint venture applications from Japan, Korea, the USSR, Poland, China, Iceland, and Spain totalling 1,555,784 mt (Table 2). The requests identify six major species or species groups for target fisheries: pollock, Pacific cod, yellowfin sole, flatfish, and Atka mackerel (Table 3). The major U.S. partners, their foreign partners and tonnages are indicated in Tables 4 and 5. Additional information and the original permit requests will be in a reference notebook available at the meeting.

According to the Council's policy on joint ventures as amended in September 1987 [item C-6(a)], requests are evaluated on a country basis and all joint ventures fish from a common pool for target species whether or not demand exceeds supply. Individual nation responses to the Council's points of concern are presented as item C-6(b) along with NMFS overviews of each country. Each company will have harvest guidelines for bycatch species as deemed necessary, and are expected to voluntarily modify their operations to minimize bycatch. The policy calls for a post season audit of bycatches by country. Item C-6(c) summarizes bycatches for Japan, Korea, China, and Poland as calculated by NMFS. Marine Resources volunteered information [item C-6(d)] that otherwise would have been confidential.

The Council will need to review each country's request for joint ventures and determine if any special permit conditions should be placed on vessel permits. A request to close joint venture flounder fishing in the Gulf of Alaska from April 1 to September 15 is included as item C-6(e). The Permit Review Committee could make this a permit condition if so desired.

An overview of actions the Council may take to encourage joint venture use of domestic support services will be available as a supplemental item.

## C. Projected JVP by Area and Species

The Permit Review Committee will forward for Council consideration a table of projected JVP by species and management area. The final determination of JVP availability will be made in full Council session after DAP is set.

## D. Foreign Vessel Permit Applications

Item C-6(f) summarizes the foreign vessel permit applications. Some may have arrived too late for inclusion and will be contained as a supplemental item. The NMFS enforcement report listing serious 1988 violations and vessels whose permits have been seized in the past five years is item C-6(g).

The Permit Review Committee and Council should review vessel permits and make recommendations as to which should have permits granted for 1989 processing and support services.

TABLE 1.

JOINT VENTURE REQUESTS AND CATCH THROUGH MID-NOVEMBER 1988<sup>1/</sup>

	1988 Request (mt)	Catch to Date (mt)
<u>JAPAN</u>		
Westward Trawlers: Taiyo, Hakodate	--	200,908
Kodiak Western Trawl: Kanai	10,000	11,560
Alyeska Ocean: Hoko	--	49,654
Peter Pan: Kaiyo, Nichiro, Shinnichi, Kanefuji, Ohura, Esahi	--	67,200
Northern Deep Sea Fish.: Nissui	--	248,050
Profish: Anyo, Fukushin, Kanari, Marue, Matsubun, Yoshida, Ohtori	--	20,900
Golden Age Fisheries: Watarai, Kato, Maruyozosen	38,500	23,455
Trawl Resources: Hokkaido	--	10,809
Alaska Pacific: Anyo (canceled)	--	--
TOTAL	916,700	632,536
<u>KOREA</u>		
Cal-Alaska: Mar. Enterprise (cancelled)	9,043	--
Alaska JV Seafoods: Nambug, Taewoong	49,700	27,517
Profish: Korea Wonyang, Dongbang, Dongwon, Namyang, Namyangsa, Sajo, Silla, Oyang	320,630	170,900
Arctic Venture Fish: Gaeyang	12,601	6,523
Dona JV Fish: Hansung, Korea Wonyang	69,501	59,701
Alaska Surimi Products/Korea Wonyang	66,709	23,430
Alaska Trawl Fisheries: Daerim	56,777	25,987
American Offshore Ventures: Samho Moolsan	70,000	38,857
TOTAL	654,961	352,915
<u>USSR</u>		
Marine Resources	226,070	159,641
<u>POLAND</u>		
Alaska Pacific: Dalmor	15,000	7,272
Profish: Gryf	15,000	3,300
Quest: Odra (cancelled)	15,000	--
Alaskan JV Seafoods: Odra	--	4,483
TOTAL	45,000	15,055
<u>CHINA</u>		
Alaska World Trade	--	9,544
China Pacific Ventures	--	15,390
TOTAL	87,000	24,934
<u>ICELAND</u>		
Kris Poulsen and Assoc. (canceled)	40,000	--
GRAND TOTAL	1,969,731	1,185,081

<sup>1/</sup> Based on data volunteered by joint venture companies.

TABLE 2.

## JOINT VENTURE REQUESTS (MT) BY COUNTRY FOR 1989

<u>Country</u>	<u>Pollock</u>	<u>Pacific cod</u>	<u>Atka mackerel</u>	<u>Yellowfin Sole</u>	<u>Flatfish</u>	<u>Other</u>	<u>Total</u>
Japan <sup>1/</sup>	--	--	--	--	--	--	595,688
ROK	405,170	38,956	36,000	102,824	18,396	16,450	617,796
USSR	--	56,000	7,000	116,000 <sup>2/</sup>	--	--	179,000
Poland	30,000	--	--	--	--	--	30,000
China	22,000	3,000	3,000	40,000	10,000	--	78,000
Iceland	1,800	30,000	1,700	1,800	--	--	35,300
Spain	<u>1,000</u>	<u>19,000</u>	<u>--</u>	<u>--</u>	<u>--</u>	<u>--</u>	<u>20,000</u>
TOTAL	459,970	146,956	47,700	260,624	28,396	16,450	1,555,784 <sup>1/</sup>

<sup>1/</sup> Japanese request not differentiated by species, therefore, column and row totals are not equal.

<sup>2/</sup> Includes other flatfish.

TABLE 3

JOINT VENTURE REQUESTS FOR 1989 BY SPECIES AND AREA  
(IN METRIC TONS)

	<u>BSAI</u>	<u>GOA</u>
<b>POLLOCK</b>		
Spain	800	200
Korea	394,170	11,000
Poland	30,000	0
China	20,000	2,000
Iceland	1,800	0
Total	<u>446,770</u>	<u>13,200</u>
Alaska-wide		459,970
<b>PACIFIC COD</b>		
Spain	16,000	3,000
Korea	37,256	1,700
USSR	56,000	0
China	3,000	0
Iceland	22,000	8,000
Total	<u>134,256</u>	<u>12,700</u>
Alaska-wide		146,956
<b>YELLOWFIN SOLE</b>		
Korea	102,824	
USSR	116,000	
China	40,000	
Iceland	1,800	
Total	<u>260,624</u>	
<b>FLATFISH</b>		
Korea	17,496	900
China	10,000	0
Total	<u>27,496</u>	<u>900</u>
Alaska-wide		28,396
<b>ATKA MACKEREL</b>		
Korea	35,200	800
USSR	7,000	0
China	3,000	0
Iceland	1,700	0
Total	<u>46,900</u>	<u>800</u>
Alaska-wide		47,700
<b>OTHER</b>		
Korea	15,450	1,000
<b>TOTAL</b>		
Japan	595,688 <sup>1/</sup>	
Spain	16,800	3,200
Korea	602,396	15,400
USSR	179,000	0
Poland	30,000	0
China	76,000	2,000
Iceland	27,300	8,000
Total	<u>1,527,184</u>	<u>28,600</u>
Alaska-wide		1,555,784

<sup>1/</sup> Japanese request not differentiated by species or area.

(Revised 12/2/88)

TABLE 4  
JOINT VENTURE REQUESTS FOR 1989

	<u>1989 Request (mt)</u>
<u>JAPAN</u>	
Westward Trawlers: Taiyo, Hakodate	---
Kodiak Western Trawl: Kanai	---
Alyeska Ocean: Hoko	---
Peter Pan: Kaiyo, Nichiro, Shinnichi, Kanefuji, Ohura, Esahi	---
Northern Deep Sea Fish.: Nissui	---
Profish: Anyo, Fukushin, Kanari, Marue, Matsubun, Yoshida, Ohtori	---
Golden Age Fisheries: Watarai, Kato, Maruyozosen	---
Trawl Resources: Hokkaido	---
Alaska Pacific: Anyo	---
TOTAL	<u>595,688</u>
<u>KOREA</u>	
Alaska Pacific: Taewong	34,400
Undecided: Nambug	28,000
Profish: Korea Wonyang, Dongbang, Dongwon, Namyang, Namyangsa, Sajo, Silla, Oyang	306,080
Arctic Venture Fish: Gaeyang	11,300
Dona JV Fish: Hansung, Korea Wonyang	53,000
Alaska Surimi Products/Korea Wonyang	71,300
Alaska Trawl Fisheries: Daerim	55,000
American Offshore Ventures: Samho Moolsan	50,500
Uyak Fisheries: Marine Enterprise	<u>8,216</u>
TOTAL	617,796
<u>USSR</u>	
Marine Resources	179,000
<u>POLAND</u>	
Alaska Pacific: Dalmor	10,000
Profish: Gryf	10,000
Alaska Joint Venture: Odra	<u>10,000</u>
TOTAL	30,000
<u>CHINA</u>	
China Pacific Ventures	78,000
<u>ICELAND</u>	
Alaska Joint Ventures	35,300
<u>SPAIN</u>	
Alaska Pacific	<u>20,000</u>
GRAND TOTAL	<u>1,555,784</u>

TABLE 5

1989

JOINT VENTURES OFF ALASKA

Alaska Pacific International Ltd.:

Anyo (Japan)  
Dalmor (Poland)  
Taewong (Korea)

Paul Gilliland  
Phil Gunsolus  
4019 21st Ave. W., Suite 202  
Seattle, WA 98199  
(206) 284-3474

Alaska Surimi Products:

Korea Wonyang (S. Korea)  
Bill Atkinson, President  
1800 W. Emerson Place  
Seattle, WA 98119  
(206) 284-2903

Alaska Trawl Fisheries:

Daerim (S. Korea)  
Thorn Smith, President  
Building C-3, Room 201  
Fishermen's Terminal  
Seattle, WA 98119  
(206) 286-8132

Alaskan Joint Venture Seafoods:

Odra (Poland)  
Taewoong (S. Korea)  
Christsson (Iceland)  
Sandra Henry  
2550 Denali, Suite 1406  
Anchorage, AK 99503  
(907) 279-0808

Alyeska Ocean:

Hoko Fishing Company (Japan)  
Jeff Hendricks or Kevin Kirkpatrick  
816 Fourth Street  
Anacortes, WA 98221  
(206) 293-4677

or

Clinton Atkinson  
Hoko Fishing Co., Ltd.  
1111 - 3rd Ave., Suite 2845  
Seattle, WA 98101  
(206) 524-4242

American Offshore Ventures:

Samho Moolsan (S. Korea)  
Charles Jacobsen, President  
2121 4th Ave., Suite 1400  
Vancouver, WA 98121  
(206) 728-7600

Arctic Venture Fisheries:

Gaeyang Hungsan (Korea)  
Terry Thomas  
3161 Elliott Ave., Suite 340  
Seattle, WA 98121  
(206) 286-1682

China Pacific Ventures:

China  
Chris Jones, President  
1138 N.W. 53rd  
Seattle, WA 98107  
(206) 789-8092

Dona Joint Venture Fisheries:

Hansung (S. Korea)  
Korea Wonyang (S. Korea)  
Walter Kuhr  
Kathy Shephard  
4215 - 21st Ave. West  
Suite 211  
Seattle, WA 98199  
(206) 285-1715

Golden Age Fisheries:

Kato (Japan)  
Maruyozosen (Japan)  
Watarai (Japan)  
Kit Adams  
111 Queen Ann Ave. N.  
Suite 201  
Seattle, WA 98109  
(206) 285-2815

Kodiak Western Trawler Group and  
Alaska Co.:

Kanai Fisheries (Japan)  
Dave Harville  
P.O. Box 1578  
Kodiak, AK 99615  
(907) 486-6460

Marine Resources Co.:

USSR

John Henderschedt  
192 Nickerson, Suite 307  
Seattle, WA 98109  
(206) 285-6424

Northern Deep Sea Fisheries:

Nippon Suisan Kaisha (Japan)

Chris Hanson  
927 N. Northlake Way, Suite 100  
Seattle, WA 98103  
(206) 545-7271

Peter Pan Seafoods Inc.:

Esahi (Japan)

Kaiyo (Japan)

Kanefuji (Japan)

Nichiro (Japan)

Ohura (Japan)

Shinnichi (Japan)

Don Rawlinson  
1000 Denny Bldg, 6th & Blanchard  
Seattle, WA 98121  
(206) 728-6000

Trawl Resources:

Hokkaido (Japan)

Chuck Baker

3425 16th Ave. West  
Seattle, WA 98119  
(206) 781-1020

Profish International Inc.:

Anyo (Japan)

Dongbang (S. Korea)

Dongwon Industries (S. Korea)

Fukushin (Japan)

Gryf (Poland)

Kanari (Japan)

Korea Wongyang (S. Korea)

Marue (Japan)

Matsubun (Japan)

Namyang Frozen Foods (S. Korea)

Namyangsa (S. Korea)

Ohtori (Japan)

Sajo (S. Korea)

Silla Trading Co. (S. Korea)

Yoshida (Japan)

Oyang (S. Korea)

Mick Stevens

Kathy Boatright  
657 N. 34th Street  
Seattle, WA 98103  
(206) 547-6800

Uyak Fisheries:

Marine Enterprise Co. (S. Korea)

Mr. Coe

4215 - 21st Ave. West, Room 108  
Seattle, WA 98199  
(206) 281-8200

Westward Trawlers Inc.:

Hakodate (Japan)

Taiyo (Japan)

Hugh Reilly

715 N.E. Northlake Way  
Seattle, WA 98105  
(206) 547-6840



NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Policy on Joint Ventures and Allocations\*

General Policy. The North Pacific Fishery Management Council is responsible by law for assuring the conservation of fishery stocks off Alaska and fostering the development of the United States fishery for those stocks currently underutilized by this country, though they may be fully exploited by other nations. The Magnuson Fishery Conservation and Management Act allows the Council to equitably allocate harvest privileges, and the Council intends to use these allocations to increase American participation in underutilized fisheries consistent with the Act.

The Council believes it is in the greatest national interest for the resource to be harvested, processed, and marketed by U.S. industry. However, until the domestic industry can harvest, process, and market the available groundfish resource, the Council will allow joint ventures between Americans and foreigners that will increase U.S. participation in the utilization of these resources. Joint ventures generally are considered to be operations in which U.S. fishermen deliver raw fish to foreign processors at sea. Other forms of joint ventures are possible and will be appraised on their individual merits as they are formulated.

The Council will continue to give highest priority to target operations that are wholly American, and joint ventures will only be considered for groundfish species not harvested and processed totally by U.S. industry.

The Council intends that any country to whom a direct allocation is given must also be engaged in "over-the-side" joint ventures or the purchase of U.S. produced products. As fully-U.S. harvested and processed fisheries expand, TALFF and then JVP will be decreased toward the total elimination of foreign fishing and processing.

Joint Venture Permit Review Procedure. The Council will hold its review each December of all prospective joint ventures for the coming year. This will coincide with the Council making its final recommendations on apportioning available groundfish yields to Domestic Annual Processing (DAP: totally U.S. harvested and processed), Joint Venture Processing (JVP: U.S. harvested and foreign processed), and Total Allowable Level of Foreign Fishing (TALFF: foreign harvested).

The Council must receive all permit applications for joint ventures at least two weeks before the week of the Council meeting. Applications must be complete and have been published in the Federal Register by Friday preceding Council meeting week. Review of applications not meeting these deadlines will be postponed until the next scheduled meeting of the Council. If necessary, the Council may request the Permit Review Committee to consider applications between regular Council meetings.

\*Adopted by Council in June 1986.  
(Amended September 1987; new language in italics)

All interested persons are invited to submit written and oral comments to the Council and its Permit Review Committee on all matters relevant to proposed joint ventures, including the extent to which various foreign nations meet the criteria listed in Table 1.

Joint ventures are expected to estimate their groundfish harvest needs as accurately as possible and to specify their needs by Council management area (e.g. Bering Sea, Aleutians, Western Gulf, etc.). The Council will compare these requests in aggregate with NMFS projections of JVP derived from industry surveys and will closely monitor attainment of joint venture goals during the season.

The Council's recommendations on approvability of permit requests and on permit conditions and restrictions will be forwarded to NMFS. The Council requests that NMFS respond in writing concerning final disposition of the Council's recommendations, with reasons for disapproval should that occur.

Basis for Recommendations. Groundfish operations which are legitimately wholly domestic in the harvesting and processing of our fishery resources and do not involve foreign flag vessels, fall under the Council's definition of DAP and therefore will not need permits. They will be given first priority in groundfish apportionments. Second priority is granted to operations involving foreign processing vessels and U.S. harvesters and other sectors of the U.S. industry.

The Council will use the criteria in Table 1 to appraise a country's joint venture requests relative to other nations and make its recommendations to NMFS. Other factors not listed may be considered also. The Council intends to give preference to those nations whose operations clearly evidence maximum U.S. industry involvement in all phases of the operation and which give strongest support to the development of the domestic industry for underutilized species.

*The Council remains very concerned about the catches of pollock and other species of fish in the international waters of the Bering Sea and the impact those catches will have on the overall stock abundance, particularly as it relates to the setting of harvest quotas in the U.S. Exclusive Economic Zone. Any nation receiving directed allocations or operating in joint ventures off Alaska will be expected to provide timely, accurate, and verifiable data on their past, present, and projected catches of pollock and other species from the international waters in question, and to cooperate whenever possible in international research programs on those stocks.*

#### Company Bycatch Guidelines

All companies will fish from a common pool for joint venture target species whether or not demand exceeds supply. However, each company will have harvest guidelines for bycatch species as deemed necessary by the Council. The Council expects a company to voluntarily modify its operations to minimize further bycatch upon reaching its guideline limit. The Council will conduct a post-season audit of performance each December when developing recommendations for joint venture approval for the following year.

Internal Waters Joint Venture Review

The Council requests the opportunity to review all internal waters joint venture requests. Depending on the nature of the specific application, the Council may meet formally in whole or in Committee to comment further. The Council staff may provide technical comments. The Governor of Alaska is requested to appoint the Chairman of the Council's Permit Review Committee as a standing member of the State's Foreign Processing Advisory Committee.

Table 1. Criteria for the review of joint venture requests\*

- 
- Level of U.S. industry involvement in all phases of nation's joint operations (harvesting, processing, marketing, or others)
  - Enhancement of U.S. employment at sea and ashore
  - Transfer of capital through investment in U.S. industry.
  - Technology transfer.
  - Achievement of joint venture goals during previous seasons.
  - Proof of financial responsibility by foreign partner.
  - Compatibility of joint operation with other U.S. fisheries and incidental species (i.e. gear conflicts, ground preemption, bycatch of U.S. fully-utilized species, etc.).
  - Economic contribution of nation's joint ventures to U.S. harvesting, processing, and support industries.
  - Purchase of U.S. processed product, especially underutilized species.
  - Compliance with U.S. laws, international treaties, and regulations.
  - Existence of trade barriers to U.S. fish products and efforts to remove them.
  - Ratios of country's total joint venture request and purchase of U.S.-processed product to total direct fishing request.
  - Reporting of fishery and market information beyond that required by law.
  - Foreign participation in fisheries research off Alaska.
- 

\*No priorities implied.

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Evaluation of GIFA Country Trade Performance  
(January - September 1988)

This paper evaluates the performance of five GIFA countries namely, Japan, the Republic of Korea, the People's Republic of China, Poland, and the USSR under the allocations criteria of the Magnuson Act.

I. Japan

Japan's imports of edible and non-edible fish products from the United States totaled \$1.4 billion in the January through September 1988, period, which represented a 64 percent increase over the \$893 million of imports in the corresponding January through September 1987, period. Virtually all of Japan's fish imports from the United States consisted of edible items. Japan accounted for 75 percent of all U.S. exports of edible and non-edible products in the first nine months of 1988.

Approximately 69 percent of Japan's fishery imports from the United States in the first nine months of 1988 consisted of highly-valued traditional species. The major fish exports to Japan were fresh and frozen salmon. This group totaled \$664 million, with sockeye salmon amounting to 71 percent (\$471.2 million) of the total. Other chief salmon exports include pink (\$62.3 million), chinook (\$25.2 million), chum (\$60.2 million), silver (\$29.8 million), and a basket category of fresh and frozen salmon amounting to \$15.3 million. Also, other forms of salmon were exported amounting to \$2.5 million, chiefly consisting of salmon fillets (\$898 thousand), dried and salted salmon (\$206 thousand), and canned salmon (\$1.4 million). Next in order came frozen crabs, valued at \$178.6 million, consisting mainly of snow crab, opilio (119.3 million), other snow crab, chiefly bairdi (\$38.7 million), king crab (\$5.2 million), other frozen crabs (\$14.1 million), and dungeness crabs (\$1.3 million). In addition, the U.S. exported several species of fresh and frozen fish, namely sablefish (\$79.1 million), herring (\$70.0 million), a basket category of other fresh and frozen fish (\$144.6 million), butterfish (\$12.1 million), halibut (\$1.3 million), and modest amounts of other species; various fish and shellfish roes, totaling \$113.9 million, consisting of salmon (\$70.7 million), herring (\$27.7 million), sea urchin (\$7.6 million), pollock (\$6.1 million), and other fish roe (\$1.8 million); several species of fish fillets and steaks amounting to \$43.3 million, and fresh and frozen shrimp which came to \$11.0 million.

Sales of underutilized and TALFF species to Japan accounted for a relatively small share (1 percent) of total exports. In the first nine months of 1988, exports of TALFF species included pollock roe (\$6.1 million), cod fillets (\$11.2 million), pollock (\$662 thousand), and squid (\$15 thousand) for a total of \$18 million. Based on the same list of TALFF items, the amount of U.S. TALFF exports to Japan in the first nine months of 1988 increased by 28 percent from last year's corresponding January through September period which totaled \$14.1 million.

On the other hand, total U.S. imports from Japan of TALFF species have decreased 46 percent from last year's January through September total of \$70.5 million to the current period total of \$38.3 million. This however, still represents 23 percent of total U.S. imports of edible and non-edible fishery products from Japan which amounted to \$163.7 million in the first nine months of 1988. Although Japanese firms export a number of items to the United States which are made from U.S. origin fish, the key product is surimi, including both the intermediary product (surimi block) and finished seafood analogs. Japan exported \$22.5 million of surimi and surimi based end products to the United States in the first nine months of 1988. This is a 38 percent decrease from last year's January through September total of \$36.2 million.

There has been no progress in recent months with NOAA's efforts to liberalize Japan's 98-Country and Global Squid Quotas. NOAA suggested consultations on these issues in October, but the Japanese declined the U.S. invitation. Nor have the Japanese responded as yet to a second NOAA invitation for December 1988 or January 1989. Discussions are expected sometime early next year on 1) pollock and herring, and 2) the 98-Country Squid Quotas.

## II. ROK

Korea's imports of edible and non-edible U.S. fish products in the first nine months of 1988 totaled \$41.0 million, a 3 percent increase from last year's total of \$39.7 million in the corresponding January through September period. As in previous years, virtually all U.S. exports of fish products to Korea consisted of edible items. Three broad categories of exports accounted for 55 percent of U.S. fishery exports to Korea in the first nine months of 1988. Two categories, herring and crab, are imported by Korea for processing and re-export to Japan and the United States. The third category, salmon, is consumed in Korea. For the period under review, these categories totaled: herring - \$3.2 million; frozen crab - \$10.8 million; and salmon - \$8.6 million. In addition, the United States exported \$4.4 million of herring roe and \$4.4 million of fish balls, cakes, and puddings to Korea.

For the period under review, U.S. processors exported \$2.5 million of TALFF species, namely pollock (\$558 thousand), cod fillets and steaks (\$1.8 million), and squid (\$131 thousand) to Korea. This represents more than 400 percent increase from last year's total of \$485 thousand. However, this is still a minimal amount accounting for only 6 percent of all U.S. fishery exports to Korea in the first nine months of 1988.

Korean sales in the United States of fish products made from U.S. origin fish remains an issue. In the first nine months of 1988, of the \$160.1 million total U.S. imports of edible and non-edible fish products from Korea, TALFF and TALFF-like species were \$68.3 million, a 27 percent decrease over the \$93.4 million in TALFF imports in the corresponding January through September 1987, period. US. official trade statistics are not easy to interpret, mainly because of the continued widespread use of basket categories in our tariff schedule. Imports of pollock block from Korea totaled \$23.5 million in the first nine months of 1988. The most sensitive issue however, is Korean sales of bottomfish fillets, which compete directly with the Alaska factory trawler fleet. These exports are not easy to quantify. For the period under review, Korea exported \$15.8 million of flatfish fillets and \$10.1 million fillets of "other saltwater fish." The above categories add to over \$25.9 million, of which an undetermined share may be competing with U.S. production.

The Republic of Korea continues to reject U.S. request for liberalization of import licenses requirement. NOAA has pressed for liberalization of five Alaska bottomfish species in Seoul consultations in June 1988 and in general trade negotiations in October 1988. Most recently, NOAA raised this request for the third time this year in late November 1988 discussions in Washington, DC and received no encouragement from the Korean side. On tariff issues, the Koreans have been more accommodating. In the late November meetings, the Koreans announced the re-establishment of a reduced 10 percent rate on frozen fish, and the elimination of all duties on joint-venture fish.

### III. PRC

U.S. exports of fish products to the PRC have never been very great. In the first nine months of 1988, U.S. fishery exports to the PRC totaled \$163 thousand consisting mainly of a basket category of fish fillets, shellfish, and frozen shrimps.

There were no U.S. exports to the PRC of products made from TALFF species. The PRC did, however, sell products made from TALFF species to the United States. In the January through September 1988, period, the PRC sold \$1.4 million of TALFF and TALFF-like species to the United States, chiefly consisting of cod fillets (\$485 thousand) and squid (\$477 thousand). Likewise, the PRC exported \$3.6 million of "other saltwater fish" to the United States, some of which may include TALFF species. Total U.S. imports of edible and non-edible fishery products for this period were \$183.5 million.

#### IV. Poland

The United States exported to Poland just a minimal amount of squid, a TALFF species, totaling \$164 thousand in the first nine months of 1988. U.S. fishermen did, however, sell unprocessed fish to Polish factory vessels in over-the-side joint ventures.

On the other hand, the United States imported from Poland \$7.9 million of edible and non-edible fishery products in the January through September 1988, period. Poland's exports to the U.S. consisted mainly of pollock blocks amounting to \$7.6 million. This represents a 69 percent decrease from last year's corresponding January through September total of \$24.8 million. Total Polish fishery exports to the U.S. in this period amounted to \$7.8 million.

#### V. USSR

A basket category of fresh and frozen fish was the only fishery item exported by the United States to the Soviet Union in the first nine months of 1988. This amounted to \$63 thousand for this period. However, the USSR exported a total of \$6.1 million edible fishery products to the United States. It consisted mainly of fresh and frozen crabs \$3.6 million and sturgeon roe (\$2.3 million).

There were no other conventional trade either way in products made from TALFF species. Since the Soviet Union is a State trading country in which trade decisions are made by the Government, trade barriers in the normal sense do not apply.

Other means by which the United States sold fish products to the Soviet Union were made through "over-the-side" joint venture transfers.



**CHINA NATIONAL FISHERIES CORP.  
U.S. FISHERY REPRESENTATIVE OFFICE  
2542 ELEUSIS CIR., ANCHORAGE, AK 99502**

**PHONE (907)243-5100  
FAX (907)243-0448  
TELEX (090)25-154**

DT

The State of Sino-U.S. Cooperation and Trade in Fisheries  
Report for 1988

1988 saw considerable development in the fisheries cooperation and trade between the United States and China. A number of projects have made concrete progress. Happily, it seems that fisheries cooperation and trade between the two nations is getting better every year.

In April of this year, a Chinese fisheries delegation visited Alaska at the invitation of the State Government. This visit was a direct result of the Fisheries Cooperation Agreement signed by the State of Alaska and China National Fisheries Corporation in Beijing in September of 1987. During the course of this visit, the delegation was able to hold numerous meetings with fisheries officials and industry representatives in which valuable contacts were made, information was exchanged, and concrete proposals were advanced. Some of the proposed projects have already shown substantial progress. In addition, we have widened our research into species not yet fully utilized by the U.S. industry. We feel this will be of great benefit to both sides both now and in the future.

As a result of a contract signed last year with the province of Heilongjiang to supply them with salmon hatchery equipment, Heilongjiang invited specialists in this area to come to China in July to help with the set-up and installation of equipment and also exchange technology in this area.

In October of this year a delegation of industry people from Kodiak has been hosted in Beijing by China National Fisheries Corp. with the aim of increasing cooperation and trade based on existing contracts. Industry representatives based in Anchorage will also attend these meetings with the aim of identifying possible areas of cooperation and trade. Shanghai Marine Fisheries Corporation has hosted a group from the Seattle based Kopac Company with which they have had an active trading relationship.

In addition to the above, China National Fisheries Corporation has hosted other fisheries groups from Seattle, San Francisco and Los Angeles.

This year Liaoning Pelagic Fisheries Corporation conducted joint venture fishing operations in the Bering Sea with Alaska World Trade Corporation. Two large factory trawlers were involved in this operation. Shanghai Marine Fisheries Corporation and Yantai Marine Fisheries Corporation were involved in a joint venture with China Pacific Ventures Inc.. Three large factory trawlers were involved in this operation. The Shanghai based vessel Kaichuang also conducted a Whiting joint venture in the WOC area with China Pacific Ventures.

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In the Bering Sea our joint venture operations took nearly 33,000 metric tons of fish while our whiting joint venture took close to 4,000 metric tons. In 1988 in the Bering Sea the Coast Guard boarded our vessels four times and we incurred none verbal warnings, once infraction. In the WOC our vessel kaichuang was boarded once time and received once verbal warning.

In contrast to other fleets, the vast majority of supplies for our vessels is purchased in the U.S. and carried to our vessels by U.S. freighters. From January to August of this year the our fleet operating in the U.S. EEZ spent \$6,680,000 in the U.S. for the purchase of fish, fuel, food, packing materials, freight and other equipment. Over 8,000 tons of finished products were carried aboard freighters either owned or operated by U.S. firms thus producing substantial income to the U.S. firms over and above the expense figure listed above. If we figure from August of 1987 to August of 1988, our fleet spent \$9,200,000 in the United States. None of our product was sold in U.S. markets while in excess of 5,760 metric tons was transported back to our domestic markets.

In July of this year at the invitation of the U.S. Government we sent representatives to a conference on the resources of the Bering Sea held in Sitka. Concurrently our representatives were able to visit the Northwest and Alaska Fisheries Center in Seattle where they were able to exchange views and strengthen ties with their counterparts there.

By the end of 1988 our fleet will have grown to six large factory trawlers with one or two freighters supporting the fleet. This means that our fleet has now grown to the size and composition which was discussed during the GIFA negotiations of 1984. We project that as a result of this growth that our capacity to receive fish provided through joint venture in 1989 will reach 80,000 tons.

At the request of the Northwest and Alaska Fisheries Center, our vessels are continuing to submit their catch figures, length frequencies and other statistics concerning our catch in the international waters of the Bering Sea.

DT

# 中華太平洋企業有限公司

CHINA PACIFIC VENTURES INC.

1138 N.W. 53RD AVE. , SEATTLE, WA. 98107  
TELEPHONE: (206) 789-8092 TELEX 4942605 (SAMHWA)  
FAX (206) 781-1346

10/27/88

Dr. Clarence Pautzke, Executive Director  
North Pacific Fisheries Management Council  
605 West 4th Avenue  
Anchorage, Alaska 99501

Dear Dr. Pautzke,

In response to your letter of October 14th concerning the performance of foreign nations requesting joint venture fishing privileges off Alaska in 1989, We would like to relate the following facts regarding the 1988 fishing activities of the People's Republic of China.

## 1. Domestic Services

(a) Approximately 70 to 80 percent of all finished products transported from Chinese vessels have been transported by U.S. flag carriers or carriers chartered to U.S. firms. Fully 100 percent of all supplies delivered to the Chinese fleet has been carried on U.S. vessels.

(b) During joint venture fishing all fuel for the fleet was purchased from U.S. suppliers.

(c) Virtually all carton stock, other packing materials, food stores, and other consumable items were purchased in the U.S.. Large purchases of electronic and fishing gear were also made in the U.S.

## 2. Domestic Processing

(a) Direct imports of U.S. processed ground fish has remained limited due to China's low per capita income and a scarcity of foreign exchange. Nevertheless, China's importation of joint venture produced ground fish has continued to grow steadily. From less than 1000 tons in 1986, it has grown

to well in excess of 5700 tons in 1988. We expect that it will again rise substantially in 1989.

(b) Industry investment remains limited but the Chinese fisheries organs have made substantial investments in property in Anchorage to house their operations there.

(c) China has continued to host visiting delegations from the U.S. industry and has entered into discussions with many groups concerning technology exchange of aquaculture techniques. China is purchasing salmon hatchery equipment from Alaska for use in Heilongjiang Province, Alaska's sister province in China.

### 3. Joint Ventures

(a) China's relationship with our company has been excellent. They have provided a large and competitive market for their fishermen. They have been willing to receive species which have little or no demand in other ventures. The Chinese fleet has always paid promptly. In actual fact the Chinese fleet still presents a market whose potential has yet to be fully utilized by the U.S. fleet.

(b) The only problem encountered on the grounds has been a lack of catching capacity by the U.S. fleet.

### 4. Species protection

(a) The Chinese engage in no fishing activity which intercepts salmon.

(b) In 1988 bycatches of halibut, salmon, sablefish, rockfish, and POP have been negligible. In 1988, out of a fleet of five factory trawlers, the fleet had one vessel which as the result of one delivery exceeded bairdii bycatch limits in one zone. The rest of the fleet remained well below industry and NMFS guidelines for crab bycatch.

(c) The Chinese fleet does not engage in any high seas gillnet fishery or any other fishery which might generate debris which might entrap birds or marine mammal. Other debris generated is retained or burned on board.

### 5. Enforcement

(a) The fleet has had no violations in 1988.

(b) There have been no vessel seizures, ever.

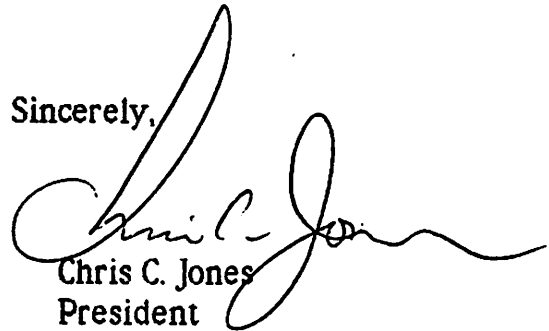
### 6. Research

(a)The Chinese fleet was the first to begin providing catch information in the donut. In addition they have provided samples of pollock caught in the donut to NMFS Seattle. This year a team of scientists accompanied the fleet and collected data on the pollock of the donut area. Chinese fishery officials also attended the the conference on the resources of the Bering Sea held in Sitka this year.

(b)As the Chinese are not involved in any high seas salmon fishery, they have had no opportunity to conduct research in this area

China's economic and technical resources are less than some participants in the fisheries of the North Pacific, but their adherence to enforcement requirements and their willingness to cooperate and work with U.S. firms may be far greater than others. Certainly in terms of potential market growth they represent a most important future partner for the U.S. industry. They have been in the past and should continue to be a valuable contributor to the fishery.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chris C. Jones".

Chris C. Jones  
President

Catches of prohibited species by joint ventures, January 1-  
November 19, 1988.

Area	Species	Catch
US-JAPAN		
Bering Sea	Pacific Ocean perch	20 mt
Bering Sea	Other rockfish	55 mt
Aleutian Islands	Pacific Ocean perch	28 mt
Aleutian Islands	Other rockfish	7 mt
Bering Sea	Sablefish	9 mt
Zone 1	Red king crab	19,163 crabs
Zone 1	Bairdi Tanner crab	44,808 crabs
Zone 2	Bairdi Tanner crab	106,267 crabs
Bering Sea & Aleutians	Halibut	255,927 fish
Zone 1	Halibut	99,558 fish
Zone 2	Halibut	109,095 fish
US-KOREA		
Bering Sea	Pacific Ocean perch	23 mt
Bering Sea	Other rockfish	20 mt
Aleutian Islands	Pacific Ocean perch	1,461 mt
Aleutian Islands	Other rockfish	390 mt
Bering Sea	Sablefish	4 mt
Zone 1	Red king crab	35,113 crabs
Zone 1	Bairdi Tanner crab	128,679 crabs
Zone 2	Bairdi Tanner crab	118,449 crabs
Bering Sea & Aleutians	Halibut	328,088 fish
Zone 1	Halibut	109,201 fish
Zone 2	Halibut	178,905 fish
US-PEOPLE'S REPUBLIC OF CHINA		
Bering Sea	Pacific Ocean perch	0 mt
Bering Sea	Other rockfish	0 mt
Aleutian Islands	Pacific Ocean perch	no fishing
Aleutian Islands	Other rockfish	no fishing
Bering Sea	Sablefish	0 mt
Zone 1	Red king crab	2,578 crabs
Zone 1	Bairdi Tanner crab	55,894 crabs
Zone 2	Bairdi Tanner crab	9,439 crabs
Bering Sea & Aleutians	Halibut	21,797 fish
Zone 1	Halibut	2,837 fish
Zone 2	Halibut	18,159 fish
US-POLAND		
Bering Sea	Pacific Ocean perch	2 mt
Bering Sea	Other rockfish	0 mt
Aleutian Islands	Pacific Ocean perch	0 mt
Aleutian Islands	Other rockfish	0 mt
Bering Sea	Sablefish	0.1 mt
Zone 1	Red king crab	35 crabs
Zone 1	Bairdi Tanner crab	850 crabs
Zone 2	Bairdi Tanner crab	718 crabs
Bering Sea & Aleutians	Halibut	1,989 fish
Zone 1	Halibut	1,112 fish
Zone 2	Halibut	877 fish

1988 MRCI BY-CATCH DATA

	MT	Red King	C. Bairdi	Halibut
YFS				
February	1636.7	1095	1196	232
March	28535.8	400	22115	37325
April	37827.9	38	46453	223941
May	32337.4	4075	20534	26355
June	2692.7	89	0	627
SUBTOTAL	103030.5	5697	90298	288480
RATE/MT		0.1	0.9	2.8
OFLAT				
June	11867.4	760	76723	50567
July	7268.6	124	16696	11092
August	375.2	0	0	1062
SUBTOTAL	19511.2	884	93419	62721
RATE/MT		0.0	4.8	3.2
TOTAL	122541.7	6581.0	183717.0	351201.0
RATE/MT		0.1	1.5	2.9

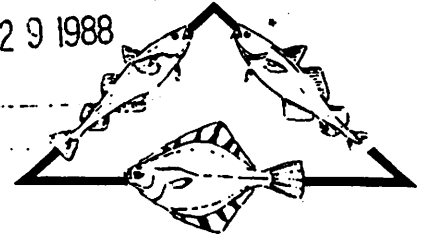
**Alaska Groundfish Data Bank**

AGENDA C-6(e)  
DECEMBER 1988

RECEIVED

NOV 29 1988

November 21, 1988



TO: PERMIT REVIEW COMMITTEE

FROM: ALASKA GROUND FISH DATA BANK

RE: JOINT VENTURE FLOUNDER SEASON IN THE GULF OF ALASKA

Enclosed is a copy of our proposal to close joint venture flounder fishery in the Gulf of Alaska from April 1 to September 15 to reduce halibut bycatch.

Under the groundfish cycle this proposal cannot be into effect until 1990 unless enacted by emergency regulations or as a condition on joint venture permits.

If the permit review committee authorizes joint venture permits for flounder fishing in the Gulf of Alaska, which we would urge as we feel the data made available by the joint venture operations is useful for the development of the domestic industry and for future management, we would appreciate any assistance the committee can give in limiting joint ventures to the winter and fall months.

We appreciate your attention to our concern.

A handwritten signature in cursive script, appearing to read "Chris Blackburn".

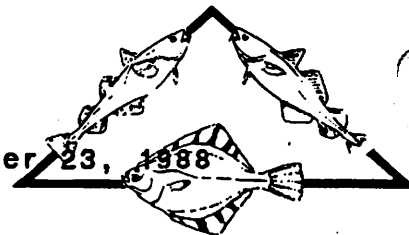
Chris Blackburn, Director  
Alaska Groundfish Data Bank



# Alaska Groundfish Data Bank

November 21, 1988

Substitution for proposal dated September 23, 1988



**RE: PROPOSAL FOR AMENDMENT TO GULF OF ALASKA GROUND FISH FMP TO CLOSE FLOUNDER JOINT VENTURE FISHING IN THE GULF OF ALASKA APRIL 1 TO SEPTEMBER 15.**

**PROPOSAL:** Close joint venture flounder fishing in the Gulf of Alaska from April 1 to September 15, should there be a flounder joint venture allocation.

**JUSTIFICATION:** During the summer halibut concentrate in the shallower water and bycatch rates of halibut in the flounder fisheries tend to be higher than in the winter and fall. The 1987 joint venture was conducted in the fall. The 1988 joint venture started in early summer and experienced a significantly higher halibut bycatch than in the fall of 1987 (125 pounds per metric ton in 1988 versus 85 pounds per metric ton in 1987).

Since halibut move into shallower water in the summer, this was to be expected.

With joint ventures ending ever earlier in the Bering Sea it is to be expected that there will be more interest in Gulf of Alaska flounder joint venture fishing and increasing likelihood of summer fishing.

We feel that the data generated by joint venture operations is very useful to the infant domestic operations and to future management; however, we feel that joint ventures should be obligated to minimize their bycatch as part of the privilege of fishing in the Gulf of Alaska.

Since this is a conservation concern we would urge that regulations be put into effect for 1989 by emergency rule. The 180 day maximum for emergency rules should be adequate to cover the period when halibut are inshore.

A complete "diary" of the 1988 fishery will be submitted to the council prior to the December meeting, as was done for the 1987 fishery.

A handwritten signature in black ink, appearing to read 'Chris Blackburn'.

Chris Blackburn, Director  
Alaska Groundfish Data Bank

List of Foreign Vessels to be Engaged  
in Joint Ventures in 1989

Vessel Name	Permit Number	Company	Gross Tons	Use
POLISH				
Perseus	PL-89-0004	Deep Sea	2,655	Process
Pollux	PL-89-0006	Deep Sea	2,584	Process
Grinwal	PL-89-0007	Deep Sea	2,475	Process
Garnela	PL-89-0008	Deep Sea	2,501	Process
Walen	PL-89-0009	Deep Sea	2,475	Process
Otol	PL-89-0011	Deep Sea	2,395	Process
Mustel	PL-89-0012	Deep Sea	2,395	Process
Humbak	PL-89-0019	Deep Sea	2,501	Process
Wlocznik	PL-89-0020	Deep Sea	2,584	Process
Marlin	PL-89-0034	Deep Sea	2,390	Process
Antares	PL-89-0037	Deep Sea	2,584	Process
Arcturus	PL-89-0038	Dalmor	2,603	Process
Kalmar	PL-89-0039	Deep Sea	2,497	Process
Sagitta	PL-89-0040	Deep Sea	2,600	Process
Tunek	PL-89-0045	Deep Sea	2,395	Process
Amarel	PL-89-0046	Gryf	2,448	Process
Gemini	PL-89-0048	Deep Sea	2,680	Process
Kolias	PL-89-0050	Deep Sea	2,395	Process
Manta	PL-89-0052	Deep Sea	2,395	Process
Tazar	PL-89-0054	Deep Sea	2,395	Process
Vega	PL-89-0055	Deep Sea	2,655	Process
Awior	PL-89-0060	Gryf	2,440	Process
Sirius	PL-89-0062	Deep Sea	2,650	Process
Mors	PL-89-0063	Deep Sea	2,501	Process
Delfin	PL-89-0065	Deep Sea	2,448	Process
Hajduk	PL-89-0066	Deep Sea	2,440	Process
Denebola	PL-89-0075	Dalmor	2,654	Process
Orcyn	PL-89-0077	Odr	2,395	Process
Orlen	PL-89-0078	Odr	2,395	Process
Rekin	PL-89-0080	Gryf	2,448	Process
Admiral Arciszewski	PL-89-0081	Deep Sea	2,620	Process
Parma	PL-89-0084	Gryf	2,440	Process
Bogar	PL-89-0085	Szczecin	2,440	Process
Indus	PL-89-0094	Dalmor	2,603	Process
Regulus	PL-89-0095	Dalmor	2,584	Process
Aquila	PL-89-0097	Gryf	3,723	Process
Cassiopeia	PL-89-0099	Deep Sea	3,723	Process
Aquarius	PL-89-0103	Deep Sea	3,720	Process
Prof. Bogucki	PL-89-0107	Deep Sea	2,374	Process
Dalmor 2	PL-89-0114	Deep Sea	3,800	Process
Altair	PL-89-0115	Deep Sea	3,860	Process
Kantar	PL-89-0118	Deep Sea	1,480	Process
Kaszuby 2	PL-89-0027	Maritime	8,032	Cargo
Halniak	PL-89-0029	Maritime	5,126	Cargo
Lewanter	PL-89-0030	Maritime	5,126	Cargo
	Permit		Gross	

Vessel Name	Number	Company	Tons	Use
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POLISH (cont)

Buran	PL-89-0033	Maritime	2,912	Cargo
Zulawy	PL-89-0041	Maritime	8,120	Cargo
Goplo	PL-89-0057	Deep Sea	796	Cargo
Wineta	PL-89-0061	Maritime	8,032	Cargo
Terral	PL-89-0086	Maritime	2,297	Cargo
Zyrardow	PL-89-0089	Polskie	6,414	Cargo
Gdyski Kosynier	PL-89-0090	Deep Sea	6,414	Cargo
Dzieci Polskie	PL-89-0091	Deep Sea	6,414	Cargo
Mazury	PL-89-0098	Maritime	8,023	Cargo
Zonda	PL-89-0102	Deep Sea	2,293	Cargo
Antoni Garnuszewski	PL-89-0106	Deep Sea	5,975	Cargo
Plock	PL-89-0109	Polskie	2,555	Cargo
Solano	PL-89-0112	Deep Sea	3,226	Cargo
Tornado	PL-89-0113	Transocean	3,226	Cargo
Kociewie	PL-89-0116	Deep Sea	8,864	Cargo
Powisle	PL-89-0119	Transocean	8,864	Cargo
Kurpie	PL-89-0120	Deep Sea	8,864	Cargo
Tatry	PL-89-0108	Szczecin	8,249	Tanker
Pieniny 2	PL-89-0110	Polish	18,249	Tanker

JAPANESE

Hatsue Maru No. 68	JA-89-0562	Taiheiyo	499	Process
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SPANISH

Arosa Diez		Intermercado	1,492	Process
Arosa Doce		Intermercado	1,390	Process
Arosa Nueve		Intermercado	1,390	Process
Arosa Sexto		Intermercado	1,389	Process

CHINESE

Geng Hai —	CH-89-0001	Liaoning	3,577	Process
Yan Yuan No. 1	CH-89-0002	Yantai	3,577	Process
Kai Chuang	CH-89-0003	Shanghai	3,180	Process
Yan Yuan No. 2	CH-89-0006	Yantai	2,406	Process
Yun Hai	CH-89-0007	Liaoning	2,404	Process
Kai Tuo		Shanghai	1,592	Process
Hai Feng 301		China Nat	2,987	Cargo
Hai Fa		Dalian	1,531	Cargo

1989 FISHING PERMIT APPLICATION  
=====

FISHERY	OWNER'S NAME	VESSEL NAME	GROSS TONS	PERMIT NUMBERS
TRAWL	KOREA WONYANG FISHERIES CO., LTD.	CHEOG YANG HO	2,801	KS-89-0003
		PUNG YANG HO	3,527	KS-89-0004
		KYUNG YANG HO	5,377	KS-89-0085
	GAEYANG HEUNGSAN CO., LTD.	GAE YANG HO	2,999	KS-89-0001
		NAMBUG FISHERIES CO., LTD.	NAM BUG HO	5,549
	NAMYANGSA CO., LTD.	CRYSTAL DAHLIA	1,903	KS-89-0034
		SUNFLOWER NO.7	3,527	KS-89-0002
	NAMYANG FROZEN FOODS CO., LTD.	SALVIA HO	1,684	KS-89-0103
		DAERIM FISHERY CO., LTD.	DAE JIN NO. 52	4,055
	DONGBANG OCEAN FISHERIES CO., LTD.	NO. 71 DONG BANG	1,459	KS-89-0121
		DONG BANG HO	3,222	
		DONG SAN HO	4,462	KS-89-0039
	DONGWON INDUSTRIES CO., LTD.	YU YANG HO	1,863	KS-89-0104
		SHIN YANG HO	1,490	KS-89-0122
		NO. 7 SANG WON	1,301	KS-89-0041
	MARINE ENTERPRISE CO., LTD.			
SAJO INDUSTRIAL CO., LTD.	ORYONG NO. 501	3,238	KS-89-0123	
	ORYONG NO. 503	1,555	KS-89-0095	
SAMHO MOOLSAN CO., LTD.	TAEBAEK HO	5,511	KS-89-0042	

FISHERY	OWNER'S NAME	VESSEL NAME	GROSS TONS	PERMIT NUMBERS
	SILLA TRADING CO., LTD.	SHIN AN HO	5,680	KS-89-0047
		HAN JIN HO	1,499	KS-89-0045
		HAN KIL HO	1,498	KS-89-0044
		HAN IL HO	1,179	KS-89-0107
	OYANG FISHERIES CO., LTD.	NO. 70 O YANG	1,599	KS-89-0048
		O YANG HO	5,377	KS-89-0006
	TAE WOONG DEEP SEA FISHERIES CO., LTD.	NO. 602 TAE WOONG	1,015	KS-89-0105
		TAE WOONG HO	4,000	KS-89-0143
	HANSUNG ENTERPRISE CO., LTD.	DAE SUNG HO	4,055	KS-89-0051
		NO. 1 HAN SUNG	1,575	KS-89-0106

28

FISHERY	OWNER'S NAME	VESSEL NAME	GROSS TONS	PERMIT NUMBERS
CARGO/ TRANSPORT VESSELS 19	KOREA WONYANG FISHERIES CO., LTD.	NO. 3 CHIL BO SAN	1,652	KS-89-0074
		NO. 5 CHIL BO SAN	1,652	KS-89-0075
		NO. 6 CHIL BO SAN	1,857	KS-89-0076
		GAE CHEOG HO NO. 2	7,619	KS-89-0090
	KOOIL INDUSTRIAL CO., LTD.	O DAE YANG NO. 106	2,654	KS-89-0099
	NAM CHANG SHIPPING CO., LTD.	NO. 103 NAM CHANG	1,358	KS-89-0141
	DONGBANG OCEAN FISHERIES CO., LTD.	NO. 77 DONG BANG	1,527	KS-89-0118
	DONGWON INDUSTRIES CO., LTD.	CORAL STAR	924	KS-89-0135
		OCEAN EXPRESS	2,702	KS-89-0142
	HANGJIN SHIPPING CO., LTD.	NO. 501 DONG SOO	1,823	KS-89-0119
	SAM HO MOOLSAN CO., LTD.	NO. 99 TAE BAEK	8,506	KS-89-0079
	SHIN YANG SHIPPING CO., LTD.	TAE YANG NO. 12	1,333	KS-89-0081
	JEONG WOO SHIPPING CO., LTD.	NO. 9 JEONG WOO	906	KS-89-0139
	KOREA SPECIAL SHIP- PING CO., LTD.	REEFER NO. 5	3,009	KS-89-0098
	REEFER NO. 1	3,859	KS-89-0147	
	REEFER NO. 2	3,567	KS-89-0148	
	REEFER NO. 3	3,319	KS-89-0149	
	REEFER NO. 6	3,099	KS-89-0150	
	HYUN IL SHIPPING CO., LTD.	NO. 101 HYUN IL	3,041	KS-89-0151
TANKER /	WOOLIM SHIPPING CO., LTD.	NAM JOO HO	2,192	KS-89-0146
OTHERS ψ	KOREA WONYANG FISHERIES CO., LTD.	GAE CHEOG HO	23,799	KS-89-0112
	DAE RIM FISHERY CO., LTD.	DAE JIN NO. 21	1,331	KS-89-0136
	SAM HO MOOLSAN CO., LTD.	NO. 29 TAE BAEK	2,697	KS-89-0091
	HANSUNG ENTERPRISE CO., LTD.	JOON SUNG HO	3,182	KS-89-0137
TOTAL		52 VESSELS		



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

AGENDA C-6(g)  
DECEMBER 1988

November 4, 1988

Mr. Clarence Pautzke  
Executive Director  
North Pacific Fishery Management Council  
P.O. Box 103136  
Anchorage, AK 99510

Dear Clarence,

Enclosed is a summary of foreign violations prepared for your use during the foreign permit review process this December. In accordance with the guidelines, these cases include:

Any case with a civil penalty of \$10,000 or more paid or assessed during the previous permit year (since 1/1/88).

Any vessel that has two or more cases with civil penalties totalling \$10,000 or more paid or assessed during the two previous permit years (since 1/1/87).

All seizures in the past five permit years (since 1/1/84). Repeat seizures by these vessels have also been listed.

Please let us know if you have any questions.

Sincerely,

*for* J. CRAIG HAMMOND  
Special Agent in Charge

Enclosures

cc: OIL



1988 cases with assessed penalty of \$10,000  
or more, or penalty paid \$10,000 or more:

Case  
Number(s)

---

EIKYU MARU NO. 81 (JA-85-0082, JDOB)

AK860003

Date of Violation: June 17, 1985

Violation: Observer was repeatedly denied access to the vessel's communication equipment and personnel necessary for the transmission of a message requesting an immediate Coast Guard boarding.

Assessed \$10,000. Settled March 22, 1988 for \$8000.00.

---

JOON SUNG HO (KS-86-0137, 6LSU)

AK860039

Date of Violation: February 10, 1986

Violation: Failed to accurately maintain daily joint venture logs.

Assessed \$12,500. Settled May 10, 1988 for \$9500.00.

---

KAI CHUANG (CH-86-0003, BIEL)

AK860134

Date of Violation: April 28, 1986

Violation: Failed to maintain the vessel's daily joint venture logs. Incorrectly and unlawfully stored non-fish products. Retained a prohibited species (halibut). Delayed in returning prohibited species to the sea.

Assessed \$11,000. Settled April 18, 1988 for \$8500.00.

---

KOEI MARU NO. 15

AK860249

Date of Violation: July 1, 1986

Violation: Interfered with and biased the sampling procedure employed by the vessel's observer (sablefish removed as incidental species from the haul were omitted from the observer's species composition sample; sablefish and rockfish were removed from the observer's species composition sample and hidden among species destined for discard; crew members discarded rockfish prior to observer sampling, and by means of tampering did bias the weighing of another basket of rockfish).

Assessed \$15,000. Settled July 13, 1988 for \$10,000.



1988 cases with assessed penalty of \$10,000  
or more, or penalty paid \$10,000 or more:

Case  
Number(s)

---

KIYO MARU NO. 55 (JA-87-0602, JKRL)

AK870032

Date of Violation: February 17, 1987

Violation: Master failed to allow NMFS observer on board to use the vessel's communication equipment and personnel upon demand for the transmission of messages. Failed to immediately notify the appropriate Coast Guard Commander after coming into conflict with and retrieving the fishing gear of another fishing vessel.

Assessed \$15,000. Settled September 8, 1988 for \$12,000.

---

EIKYU MARU NO. 6

AK880016

EIKYU MARU NO. 81

KORYO MARU NO. 52

TAISEI MARU NO. 21

HK1-850

EIKYU MARU NO. 5

KAIYO MARU NO. 18

YAMASAN MARU NO. 102

Date of Violation: January 14, 1988

Violation: Engaged in fishing without a valid and applicable permit for said vessel.

Assessed \$200,000. Settled between June 13 and  
September 21, 1988 for \$200,000.

1987-88 vessels having two or more cases  
with assessed penalty of \$10,000  
or more, or penalty paid \$10,000 or more:

Case  
Number(s)

---

EIKYU MARU NO. 81

AK860003  
AK880016

Dates of Violation: June 17, 1985  
January 14, 1988  
Assessed \$35,000.00; \$33,000.00 penalty paid.

---

GENG HAI

AK860066  
AK860198  
AK870042

Dates of Violation: April 9, 1986  
May 12, 1986  
March 29, 1987  
Assessed \$15,000.00; \$9000.00 penalty paid.

---

JOON SUNG HO

AK860023  
AK860039  
AK870090

Dates of Violation: February 27, 1985  
February 10, 1986  
January 15, 1988  
Assessed \$25,000.00; \$17,500 penalty paid.

---

KAI CHUANG

AK860051  
AK860134

Dates of Violation: March 24, 1986  
April 28, 1986  
Assessed \$16,000.00; \$11,500.00 penalty paid.

Vessels seized within the last 5 permit years  
(since 1/1/84) and vessels with repeat seizures:

Case  
Number(s)

---

GOLDEN DRAGON NO. 1 (TW-85-0004, BVHY)

AK800011/AK850270

Seized February 1980

Violation: Underlogging catch by 20 percent.

Settled May 1980 for \$40,000.

Seized October 1985

Violation: Retention of prohibited species (halibut and  
sablefish).

Settled October 1985 for \$85,000.

---

SHIN YANG HO (KS-86-0122, DTBC)

AK860280

Seized November 1986.

Violation: Master physically assaulted an NMFS observer,  
tampered with the observer's equipment and records, sexually  
harassed observer, and failed to allow observer to use  
communications equipment.

Settlement pending.

**JAY D. HASTINGS**

ATTORNEY AT LAW

SUITE 8905  
1111 THIRD AVENUE  
SEATTLE WASHINGTON 98101

(206) 898-0798  
TELEX: 82-8024  
ANBBK; FORTER LAW MEA

November 28, 1988

Mr. Clarence Pautzke  
Executive Director  
North Pacific Fishery Management Council  
P.O. Box 103136  
Anchorage, Alaska 99510

Re: Allocations for 1989

Dear Clarence:

I am writing this letter on behalf of the Japan Fisheries Association in response to your October 14 memorandum to all representatives of foreign nations requesting directed and/or joint venture fishing allocations. I would also like to take this opportunity to express the Japanese position on fishery allocations within the U.S. 200-mile zone.

1988 has been a landmark year in the history of Japan/U.S. fishery relations. Foreign directed allocations have been eliminated for the first time since establishment of the 200-mile zone. In addition, joint venture fishing allocations, which had been increasing consistently since 1981, were scaled back substantially.

To make matters worse, the U.S. government has certified Japan under the Packwood-Magnuson amendment to the Magnuson Act alleging that Japanese research activities are diminishing the effectiveness of the International Whaling Convention. The President's decision to impose the sanction and to reduce the Japanese allocation by 100 percent is quite unreasonable. As we have repeatedly explained, Japanese research activities are perfectly consistent with the provisions of the IWC convention. In this regard, we note that Norway and Iceland, which have conducted similar research activities, have not been certified. We would like to strongly request the U.S. government through the support of this Council to lift the sanction.

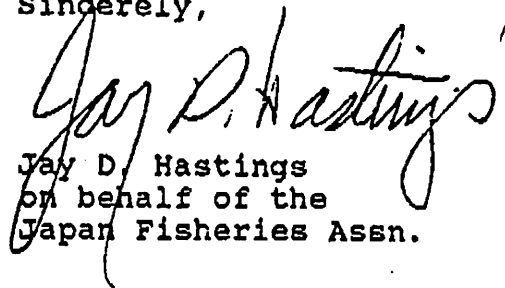
There is no doubt that the imposition of sanctions and the elimination of Japanese fishing activities from the U.S. 200-mile zone will have a detrimental effect upon the fishery relationship between Japan and the United States. Japanese fishermen have been genuinely disappointed by the political maneuvering to reduce and eliminate fishery

Mr. Clarence Pautzke  
November 28, 1988  
Page 2

allocations to Japan. They believe they have cooperated and assisted in every way possible, often with significant economic losses, in order to establish a stable fishery relationship with the United States. However, we do not believe the Japanese cooperation and assistance has been duely appreciated.

A primary goal of the Magnuson Act and this Council should be to maximize the benefits to the U.S. which can be derived from the U.S. fishery resources off Alaska. Total elimination of foreign fishing allocations does not serve this goal. For the purpose of maintaining cooperative fishery relations and promoting the resolution of other fishery problems between the two nations, it is certainly more beneficial for both nations to maintain a reasonable level of foreign fishing activity within the U.S. zone. We sincerely hope the Council will recognize the Japanese cooperation and assistance outlined in the attachment to this letter and make rationale decisions with respect to the allocation issue.

Sincerely,



Jay D. Hastings  
on behalf of the  
Japan Fisheries Assn.

Attachment (2 pages)

## ATTACHMENT: SUMMARY OF JAPANESE COOPERATION

Trade in Edible Fisheries Products during 1987:

- The total value of U.S. exports of seafood products to Japan was \$1,058 million, a 23 percent increase over 1986. The total value of U.S. imports from Japan was \$278 million, a 15 percent reduction from 1986. The U.S. enjoyed a favorable trade surplus of \$780 million.
- Values of Japanese groundfish imports from the U.S were: Pacific cod and pollock - \$216 million (a 39 percent increase over 1986); flatfish - \$73 million; sablefish - \$105 million; and rockfish - \$20 million.
- Japan purchased 71,000 mt of processed pollock (round base) and 57,762 mt of other U.S. processed groundfish products. As of November 20, 1988, a total of 117,000 mt of processed pollock has been purchased.
- On January 1, 1987, the tariff rates on frozen pollock, cod, and herring were reduced from 10 to 6 percent. The import quotas for herring and pollock were also modified to promote imports. Japan is unaware of any major fishery trade problems with the U.S. at this time.

Investment in the U.S. Industry:

- The two Dutch Harbor surimi plants are now fully operational.

Transfer of Technology and other Forms of Assistance to U.S. Seafood Production:

- Assistance to the state of Alaska for feasibility studies on scallop aquaculture in Kodiak, growing kelp for roe-on-kelp fisheries, and training personnel for the surimi plants in Dutch Harbor.
- The North Pacific Longline Association (NPL) provided 3 technicians to Nelson and Nunivak islands in Western Alaska to assist the development of the groundfish fisheries.
- The NPL sent two vessels to Norton Sound to purchase salmon from the native fishermen, even though substantial economic losses were expected.

- The NPL has arranged a Pacific cod import quota for the exclusive benefit of the U.S. industry.

#### Joint Ventures:

- The total request for 1988 was 728,000 mt to be purchased by 29 different Japanese companies taking deliveries from approximately 50 U.S. catcher vessels.
- Performance as of November 19, 1988: pollock - 537,000 mt; yellowfin sole - 78,000 mt; other flatfish - 32,200 mt; Pacific cod - 19,000 mt; and other species - 4,000 mt.

#### Species Protection:

- Since Japan received no directed allocations during 1988, there were no bycatch problems.
- In September, 1988 Japanese police and customs authorities exposed a major Taiwanese salmon laundering scheme following a long and intensive joint investigation. Four Japanese suspects who had smuggled Taiwanese salmon into Japan were arrested.
- The Japanese salmon fleets have been striving to minimize the incidental interception of North American salmon.

#### Enforcement:

- The government of Japan has imposed stiff penalties on those vessels which were found to have conducted illegal fishing operations outside the international waters of the Bering Sea and within the 200-mile zones of the U.S. or the U.S.S.R.

#### Research:

- Groundfish research. Three Japanese research vessels were used for groundfish research on two surveys: (1) the cooperative scientific echo sounder/midwater trawl survey; and (2) the cooperative longline survey (using a NPL vessel). A second cooperative scientific echo sounder/midwater trawl survey is planned for this winter.
- Salmon research. Eleven Japanese research vessels were used for salmon research under the framework of the INPFC.

# KOREA DEEP SEA FISHERIES ASSOCIATION

C. P. O. BOX 2710  
 TELEX: KODESE K27538  
 CABLE ADD: "KOPELAGIC"  
 SEOUL  
 TEL: 779-0531 ~5

#10-1, 2GA, HOIHYUN-DONG  
 SEOUL, KOREA

RECEIVED

NOV 17 1988

November 19, 1988

Mr. Clarence G. Pautzke  
 Executive Director  
 North Pacific Fishery  
 Management Council  
 411 West 4th Avenue  
 P.O. Box 103136  
 Anchorage, AK 99510

ACTION	ROUTE TO	INITIAL
	Exec. Dir.	
	REP. NR. Dir.	
	Admin. Off.	
	Exec. Sec.	
	Staff Asst. 1	
	Staff Asst. 2	
	Staff Asst. 3	
	Economist	
	Sec./Bkkr.	
	Sec./Typist	

SUBJ: 1988 Permit Review Committee Review of Foreign  
 Fishing Nation Contributions (ref your memo dtd 10/14/88)

Dear Clarence:

This letter presents the Korean Fleet's response to the Permit Committee's request for information prior to its consideration on December 4th of Korean performance during 1988. The information is organized according to the outline in Attachment 1 to your memorandum cited above.

1. Domestic Services

(a) U.S. transport services used.... As of October 31, 1988, the Korean Fleet permitted in the U.S. Zone had moved 171,334 mt of cargo in 1988. Of this, 2,070 mt was moved in American bottoms, with payments to American providers totaling \$518,000.

(b) U. S. bulk fuel services used.... As of October 31, 1988, the Korean Fleet in the U.S. Zone had used 30,590 kiloliters of American-supplied fuel valued at \$4,754,000.

(c) Other supplies and services.... Korean Fleet records show expenditures of \$4,565,000 in this category.

2. Domestic Processing

(a) Trade.... The most recent ROK statistics are presented below:



"Korean Performance"  
November 19, 1988  
Page two.

ROK TRADE IN FISHERIES PRODUCTS  
Exports and Imports by Value (thousands of U.S. dollars)\*  
1987 and 1988 (through 8/88)

		<u>Total</u>	<u>United States</u>
1987	Exports	\$1,620,411	282,270 (17%)
	Imports	203,334	97,133 (48%)
1988 (8/88)	Exports	1,305,000	158,000 (12%)
	Imports	197,669	118,937 (60%)

\* A breakdown between processed and unprocessed product is not available.

The increase of Korean fisheries imports in recent years has been remarkable. Imports of fisheries products very nearly doubled in 1986, and the United States had almost half of the market. This jump moved the Republic of Korea into the position of the second-largest export customer for American fisheries products. Imports moved up sharply again in 1987, with the U.S. maintaining its dominant share. In 1988, Korean fisheries exports are down, but imports continue very strong, with a total at the end of August almost reaching the total for year-end 1987. Significantly, the U.S. share has risen this year to 60%. Obviously, the growing Korean economy is drawing in a greatly expanded range of imports, and the ROK trade regulations are not impeding imports and are being administered, as reported in previous submissions, in such a way as to encourage imports from the United States.

(b) Investment in U.S. industry. Korean investment in the American harvesting and processing industries continues. The investments reported in previous submissions have all continued to develop and move into production and sales. Dongwon Industries has announced plans to work with a group of eight American partners organized as Fishery Investment Ltd to do a \$10 mln conversion of a 20-25,000 mt catcher/processor with surimi capabilities (the new entity will be titled Phoenix Processor Partnership, Ltd).

(c) Transfer of technology.... The Korean industry, beginning with its development of the over-the-side "joint venture" concept, has continued over the years to contribute management, harvesting and processing technology and knowhow to

"Korean Performance"  
November 19, 1988  
Page three.

the U.S. industry in general and in particular to its American partners and employees. Increasingly, Korean equity ventures are contributing to American marketing expertise, particularly with respect to export markets. For example, the Marine Enterprise plant in Kodiak, organized as Pacific International Seafood, sells primarily into Korea.

### 3. Joint Ventures

(a) Performance. Through October of this year, the Korean Fleet had purchased 353,309 mt in over-the-side American-harvested fish, for a total of \$52.9 mln. Purchases by year-end are estimated at 355,019 mt, for a total value of \$53.2 mln. Purchases in joint ventures are down this year in both volume and value in comparison to the 445,494 mt purchased in 1987 for \$64.3 mln.

(b) Problems.... The Korean Fleet is not aware of any problems on the grounds in connection with their joint ventures.

### 4. Species Protection

(a) High seas salmon interception. After many years of assuring the American Government and industry that the Korean high seas squid fishery had virtually no interception of salmon, the Korean industry bowed to American insistence and accepted an American observer aboard a Korean squid vessel during the period of July 9 through August 8 of this year. The boarding was at great inconvenience, expense and risk for the Korean side, but fortunately passed without incident. The American observer recorded zero interception of salmon.

(b) Bycatches in the groundfish fisheries.... Korean training programs have led to a high degree of compliance with the species prohibitions and limitations in effect in the U.S. Zone. The Korean industry is not aware of any problems in this area.

(c) Discards.... The Korean regulations prohibiting the discard of nonbiodegradable materials have been explained in previous reports. This year has seen marked increases in training, tightening of inventory procedures and the institution of an official observer system. Korea will participate in the April, 1989 Hawaii conference on debris -- as it has in all previous such meetings.

"Korean Performance"  
November 19, 1988  
Page four.

## 5. Enforcement

(a) Serious violations.... None.

(b) Vessel seizures.... Last year's report gave the status of the Shinyang Ho case which began with the seizure of the vessel in November, 1986. The U.S. Government's case in admiralty against the vessel remains outstanding.

## 6. Research

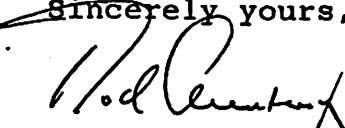
(a) Status of groundfish stocks.... This year, the National Fisheries Administration cooperated in a sixty-day joint study with NMFS on the Northwest Pacific biomass between the dates of July 5 through September 2 in the area N35 degrees - N45 degrees/180 degrees. As in each year since 1979, there was a fall meeting of Korean and American scientists for resource evaluation.

(b) Information on catches in international waters of Bering Sea. As of the end of October, 1988, 32 Korean vessels had caught 144,350 mt of pollock and bycatch in the "donut." It is estimated that the total for the year will approximate 250,000 mt. An exchange of diplomatic notes between the Government of the Republic of Korea and the Government of the United States was effected July 14, 1988 providing for the exchange of information on catches in the international waters of the Bering Sea. Korean delegations participated in the multilateral meeting of scientists on the subject held in Sitka in July and the recent Anchorage symposium.

(c) High seas salmon research. See the comments under 4 (a) above.

The Korean Fleet will be represented at the December 4th meeting of the Permit Review Committee. At that time, we will be happy to respond to any further questions Members might have.

Sincerely yours,

  
Rodney E. Armstrong  
Agent for the  
Korean Fishing Fleet

EMBASSY OF THE POLISH PEOPLE'S REPUBLIC

COMMERCIAL COUNSELOR'S OFFICE

820 SECOND AVENUE, 17th FLOOR

NEW YORK, N.Y. 10017

Telephone (212) 370-5300

Telex WU 595657 polcomer nyk

New York, November 2nd, 1988

Our ref: 1862/88

North Pacific Fishery  
Management Council  
P.O. Box 103136  
Anchorage, Alaska 99510

NOV - 8 1988

Attn: Mr. Mr. John G. Peterson, Chairman  
Clarence G. Pautzke, Executive Director

In reference to your letter dated from October 14th, 1988,  
please find in enclose necessary informations related to the  
foreign allocations and joint venture review guidelines for 1989

Sincerely yours

*Edward Budziński*

Edward Budziński  
Commercial Attache

Foreign allocations  
and joint venture review guidelines  
for 1989

---

1. Domestic services

a/ In 1988 Polish Deep Sea fishing companies have employed American reefer vessels /Western Pioneer and Sunmar Shipping Inc. in Seattle/ for the purpose of transportation of fish products in charter agreements for the amount to 2,5 million US dollars.

Projections for 1989 show that this same would be sustained

b/ Fuel purchases for fishing vessels in 1988 reached a total amount of 16 million US dollars.

c/ Other ship supplies including packing materials purchased by Polish vessels reached the value of 13 million US dollars in 1988.

2. Domestic processing

a/ Trade. In 1988 Poland exported to the US market pollock fillets for ca 10 million US dollars value.

In this same time Poland has purchased from Rudolf R. Papaleo - San Francisco 400 mt of squid valued of 400.000 US dollars.

The Polish market is open to American fish products, there are no trade tariff barriers however short hard currency deposits are the major obstacle for trade development.

b/ There are investments in the United States from the side of Polish fishing enterprises.

c/ Polish fishing industry has no barriers in transferring technology to its US partners. We do have a very close cooperation in this field.

3. Joint ventures.

a/ In 1988 Poland has applied for a quota of 45.000 mt. of Alaska pollock and the whole quantity has been covered by contracts with US partners.

b/ 1988 has been noticed as a year good progress in the fish coordination at sea and cooperation between Polish and American partners. Both sides are satisfied with this fact. There are not noted cases of violations of the US regulations at sea by the Polish vessels.

4. Species protection.

a/ High seas salmon interception. In the 1988 pollock season not a single fishing vessel violated the US regulations for pacific salmon protection.

b/ There are not noted violations in bycatch of the ground fish, including prohibited species like crabs, halibut etc.

c/ Neither plastics nor net fragments were noted to be discarded at sea by Polish vessels in 1988.

5. Enforcement.

a/ There were no serious violations /penalties of 10.000 US dollars/ of the US regulations by Polish fishing vessels in 1988 and in the past five years of fishing activity at the Bering Sea.

6. Research.

Sea Fishing Institute in Gdynia from 1974 arranged permanent

scientific research of the Bering Sea and reports are constantly presented to the American Fishing Research Centers in Seattle and Woods Hole.

4. The Sea Fishing Institute - Sorting Plancton Center in Swinoujsk since 10 years is conducting research work on the basis of biological samples delivered to Poland by Americans from Bering Sea /EE zone and Donut Hole/. Results of scientific work are delivered to the United States.

Polish scientists have prepared for 1989 a research program on the Bering Sea. It was decided that the research vessel M/S Professor Siedlecki would be sent to this area.

In 1988 two American biologists together with their Polish colleagues on the board of our two fishing vessels have conducted research work on the Donut Hole. Reports from this work have been presented to the North Pacific Fishery Management Council. Poland presents promptly all data connected with its fishing operations in the Donut Hole region.

Edward Budziński

  
Commercial Attache



Alaska Joint Venture Seafoods, Inc.

November 28, 1988

Mr. Clarence Pautzke  
North Pacific Fishery Management Council  
P.O. Box 103136  
Anchorage, AK 99510

RE: 1989 JV Operations

Dear Mr. Pautzke:

AJVS, Inc. has an agreement to arrange delivery of approximately 10,000 metric tons of pollock to Odra Deep Sea Fisheries Company of Swinoujscie, Poland during the 1989 fishery in the Bering Sea, Aleutian Islands and Gulf of Alaska.

Odra will provide up to three processors. The specific processors have not been determined at this time but they will have capacities of 70-80MT/day and at least one ship will have Comsat telephone and telex communications. AJVS will provide up to four catchers, depending on fishing conditions. Those catchers presently designated are F/V Ms. Amy, F/V Lady Louise, F/V Anna Marie, and F/V Ms. Kelly II.

Estimations from our Polish partners indicate that the entire Polish fleet expenditures for U.S. support in 1988, including fuel and supplies, may exceed \$31 million. Of that, approximately \$16 million is in fuel through Texaco, B.P, and others. They project their 1989 U.S. expenditures to reach \$31 million also.

In Anchorage, the Polish fleet uses Alaska Team Marine for technical services and ship repair and Peter Herring Ship Supply for technical and food supplies. The following is a list of local dealers and suppliers from which goods and services are purchased:

**FUEL**

Petro Marine

**GROCERIES AND PRODUCE**

Katchemak Foods

Costco

Price Savers

Big Country Foods

Produce Services Distributors

A.L. French

Produce Wholesale

Linford of Alaska

**OTHER SUPPLIES AND SERVICES**

Humana Hospital

Anchorage International Inn



Mr. Clarence Pautzke  
November 28, 1988  
Page 2

National Bank of Alaska  
Key Bank  
1st Interstate Bank  
Aero Services - motor rewinding  
Hayden Electric - motor rewinding  
Eastern Electric - motor rewinding, machine work  
Superior Machine - welding & machining  
B&B Welding - " "  
Unique Machine - " "  
York Steel " "  
Plaschem - fiberglass work, life boat repair  
Eagle Enterprises - life rafts  
AIH - misc. hardware, belts  
Alaska Bearing Company - bearings  
Zellerback Paper - strapping mats.  
Browns Electric - general electric  
Big Three Lincoln - welding, supplies, bottled gas  
Fire & Fastener Equipment - misc. hardware  
Alaska Rubber Company - hoses, gaskets, misc.  
Huffman Strapping - strapping and stenciling mats.  
HASCO - boiler equipment  
Dowland Bach - hydraulic supplies  
Alaska Commercial Electronics - diodes, fuses, misc. electric  
Anchorage Linen Service - laundry services  
Alaska Sand and Gravel - cement, sand, specialized paint  
Altex Distributors - chemicals  
C.R. Lewis Co. - copper coil winding  
Columbia Distributors - grease and lube mats.  
Anchorage Cold Storage  
B&B Tool  
B&J Commercial  
Anchorage Cold Storage

We experienced a very successful 1988 joint venture with Odra. The availability of a Comsat line on their lead vessel made communications and coordination of the venture much smoother. The Polish were cooperative and at one point toward the end of the "C" season brought a processor in from the Donut area to fish the remaining quota.

This letter is submitted in support of the Polish permit application for the 1989 Joint Venture fishery. Consideration by the Permit Review Committee as well as the Council would be very much appreciated.

Sincerely,

AJVS, Inc.

  
Sandra Henry

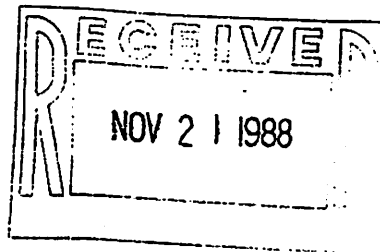
Joint Venture Operations Coordinator



**MARINE RESOURCES COMPANY INTERNATIONAL**  
A Washington Partnership

DT

November 15, 1988



Mr. Clarence Pautzke  
Executive Director  
North Pacific Fishery  
Management Council  
Post Office Box 103136  
Anchorage, Alaska 99510

Dear Mr. Pautzke:

I am pleased to inform you of our U.S.-U.S.S.R. joint-venture target tonnages and projected fishing schedule for the 1989 season. I would like to make special note of the fact that shortfalls in reaching our targets in recent times have been due primarily to early closures of joint-venture fisheries. Our plans for 1989 reflect what we feel to be realistic goals, given the present scenario of 1989 fisheries in the Bering Sea. We intend to start our 1989 operations on 10 January.

**Pacific Cod:**

56,000 MT  
16 BRMT Freezer/Trawlers  
1 Mothership  
27 Full-time U.S. Trawlers

**Yellowfin Sole and Other Flounders\*:**

116,000 MT  
22 BMRT Freezer/Trawlers  
1 Mothership  
27 Full-time U.S. Trawlers

\* Reflects what we plan to take during directed YFS fishery. We will target on OFlats as conditions permit.

**Atka Mackerel:**

7,000 MT  
1 Mothership  
3 Catcher Boats

Of course, MRCI will do its best to maximize use of retainable by-catch species, as well as continue its efforts to reduce by-catch of prohibited and fully utilized groundfish species.

U.S.A.  
192 Nickerson  
Suite 307  
Seattle, WA 98109  
Tel: (206) 285-6424  
Telex: 277115 MRC UR  
FAX: (206) 282-9414

Mail Pouch 704  
Dutch Harbor, AK 99692  
Tel: (907) 581-1886

U.S.S.R.  
National Hotel  
Suite 450  
Moscow  
Tel: 2203-5466  
Telex: 413 052 SOVAM

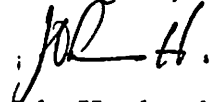
Verkhne Morskaya  
dom 134  
Nakhodka 17  
Primorski Krai  
Tel: 25-290  
Telex: 213818 NMRK SU

Mr. Clarence Pautzke  
Executive Director  
NPFMC  
November 14, 1988  
Page 2

MRCI, its Soviet partners and U.S. fishermen look forward to another successful season of joint-venture fishing in the Bering Sea. If you have any further questions, please do not hesitate to contact me, Bert Larkins, or my staff.

Thank you for your consideration.

Best regards,



John Henderschedt  
Director of JV Operations

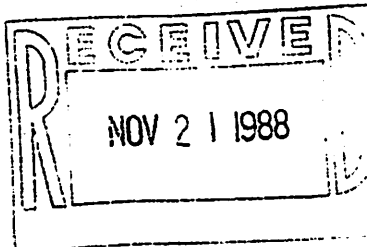
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cc: Dale Evans, F/AKR



MARINE RESOURCES COMPANY INTERNATIONAL  
A Washington Partnership

November 15, 1988



Mr. Clarence Pautzke  
Executive Director  
North Pacific Fishery  
Management Council  
Post Office Box 103136  
Anchorage, Alaska 99510

Dear Clarence:

I am writing in reply to your 14 October memorandum to "representatives of foreign nations requesting directed or joint-venture fishing privileges off Alaska in 1989." As the U.S.S.R.'s joint-venture fishing operations are conducted exclusively through Marine Resources Company International (MRCI), a Seattle based equal equity partnership, I am pleased to submit the following information on behalf of the U.S.S.R.

1. Domestic Services

(A) U.S. transport services used compared to total service required:

All trans-shipments of joint-venture origin product from the U.S.-E.E.Z. in 1988 has been aboard Soviet refrigerated transports or freezer trawlers.

(B) U.S. bulk fuel services used:

In 1988, Soviet vessels involved in joint-venture operations purchased more than \$700,000 worth of fuel in U.S. ports.

(C) Other supplies and services from domestic sources:

More than 50 calls to ports including Dutch Harbor, Astoria, and Portland. Port call fees, ships' supply purchases, and cash spent by crew members account for more that \$1 million in 1988 port call expenditures. The U.S.S.R. purchased \$22,000 worth of fisheries-related supplies through MRCI's U.S manufacturer's representation divisions.

2. Domestic Processing

(A) Trade (imports, exports, purchases of U.S.-processed groundfish, Tariff and non-Tariff trade barriers, etc.):

In 1988, the U.S.S.R. imported nearly \$42 million worth of unprocessed JVP species. This year also saw the conclusion of a U.S.-U.S.S.R. bi-lateral fisheries agreement which will allow for U.S.fisheries participation in the Soviet E.E.Z.

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Tel: 2203-5466  
Telex: 413 052 SOVAM

Verkhne Morskaya  
dom 134  
Nakhodka 17  
Primorski Krai  
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Telex: 213818 NMRK SU

Mr. Clarence Pautzke  
Executive Director  
NPFMC  
November 15, 1988  
Page 2

(B) Investment in U.S. industry:

Sovrybflot (Soviet Ministry of Fisheries) is half-owner of U.S.-U.S.S.R. Marine Resources Company International. MRCI employs some 30 full-time and 70 part-time U.S. citizens. MRCI's gross annual sales are in excess of \$70,000,000.

3. Joint-Ventures

(A) Performance:

The 1988 U.S.-U.S.S.R. joint-venture catch off Alaska totalled 159,664 MT, bringing its 11 year cumulative total to 1.4 million MT of groundfish taken in the Bering Sea and northeastern Pacific. The 1989 U.S.-U.S.S.R. joint-venture target tonnage in the Bering Sea is 170,000 MT using approximately 30 U.S. trawlers. The value of this catch to U.S. fishermen exceeds \$30 million.

(B) Problems on the fishing grounds:

Soviet and American partners continue to stage annual meetings between U.S. and Soviet senior captains so as to further increase the efficiency of joint-venture fishing operations.

4. Species Protection

(A) High-seas salmon interception:

The U.S.S.R. opposes high-seas salmon fishing and has a bi-lateral agreement with Japan similar to that of the U.S. to control such third party intercepting fisheries. The U.S.S.R. has expressed commitment to increase cooperation regarding information exchanges and enforcement so as to eliminate the illegal harvest of salmon by vessels involved in the North Pacific Squid and other fisheries.

(B) By-catches in the groundfish fisheries of prohibited and fully utilized species:

U.S.-U.S.S.R. joint-venture fisheries have been and continue to be the model for reducing by-catches of prohibited and fully utilized species. Detailed by-catch information has been promptly submitted to the Council.

(C) Discards of plastics and net fragments that incidentally capture fish, birds and marine mammals:

Mr. Clarence Pautzke  
Executive Director  
NPFMC  
November 15, 1988  
Page 3

Discards at sea of plastics and net fragments are prohibited by Soviet regulation.

5. Enforcement

(A) Serious violations in Alaska FCZ (penalties of \$10,000 or more):

There were no serious violations in 1987-88.

(B) Vessel seizures in past 5 years:

There have been no vessel seizures in the past 5 years.

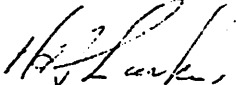
6. Research

The U.S.S.R. has continued its cooperative field research with U.S. scientists on salmon, groundfish and marine mammals. The U.S.S.R. participated with the U.S. in joint research projects concerning all three of these topics in 1988.

The U.S.S.R. is deeply concerned with the presently unregulated nature of pollock fisheries in the "Donut Hole" area. A Soviet delegation attended the multi-national scientific symposium this summer in Sitka, Alaska. The U.S.S.R. hosted discussions on this topic with a U.S. delegation in October. These meetings confirmed a bi-lateral commitment to more stringent conservation measures in the area between our nations' E.E.Z.s.

We and our U.S. fishermen are looking forward to another successful joint-venture fishing season in 1989. If there are questions regarding our operations that are not fully covered above, either John Henderschedt or I and several of our fishermen will be present during the December Council meeting.


Sincerely yours,

  
H.A. Larkins  
Vice President/  
General Manager

/pg

cc: Dale Evans, F/AKR

MEMORANDUM

TO: Permit Review Committee  
FROM: Clarence G. Pautzke   
Executive Director  
DATE: December 3, 1988  
SUBJECT: Encouraging Joint Venture Use of Domestic Services

In September the Council requested the staff to present an analysis of the measures the Council could use to encourage joint ventures to use domestic support services. Below is a brief analysis with alternative approaches that could be used during permit review.

Maritime Support Group Recommendations

Last June the Council accepted the recommendation of the Maritime Support Group to give higher priority during permit review to joint ventures with greater U.S. involvement, including supply and transportation. The Committee had advised the Council to emphasize the following three criteria in its Permit Review Policy when reviewing joint venture requests for 1989:

- Level of U.S. industry involvement in all phases of nation's joint operations (harvesting, processing, marketing, or others).
- Enhancement of U.S. employment at sea and ashore.
- Economic contribution of nation's joint ventures to U.S. harvesting, processing, and support industries.

A letter was sent to all joint ventures and foreign agents this fall explaining that the use of U.S. support services would be a high priority at the December review. We requested information on the extent to which domestic services were being used.

The responses to this letter are in your notebooks. We received information on use of domestic services from China, Korea, Poland and the Soviet Union as follows, but none from Japan:

China:

- 70-80% of all finished products transported on U.S.-flag vessels or vessels chartered to U.S. firms. Over 8,000 mt finished product.
- All supplies and fuel from U.S. sources.
- All carton stock, packing material, food stores and consumable items from U.S. plus large purchases of electronic and fishing gear.
- \$9.2 million in purchases from August 1987 to August 1988.

Korea:

- Of 171,334 mt cargo transported in 1988, 2,070 mt was moved in U.S. flag carrier with payments of \$518,000.
- 30,590 kiloliters fuel from U.S. worth \$4.754 million.
- \$4.565 million in supplies and services.

Poland:

- \$2.5 million for transport of fish products by Western Pioneer and Sunmar Shipping.
- Fuel purchases of \$16 million.
- Packing materials and other supplies worth \$13 million.

USSR:

- \$700,000 in fuel purchases from U.S.
- More than 50 port calls to Dutch Harbor, Astoria, and Portland, amounting to more than \$1 million in expenditures.
- \$22,000 in fisheries related supplies through MRCI's U.S. divisions.

Japan:

- No information received.

In addition there is a letter from Alaska Joint Venture Seafoods in your notebooks under C-6. They operate with Poland and have provided additional detailed information on their use of U.S. services and supplies.

General Use of Permit Conditions and Restrictions

The Magnuson Act [Section 204(b)(7)(E-F)] authorizes the Secretary of Commerce to condition and restrict permits for foreign vessels to, among other things:

- specify the maximum amount or tonnage of United States harvested fish which may be received at sea from vessels of the United States.
- specify any other condition and restriction related to fishery conservation and management which the Secretary prescribes as necessary and appropriate.

NOAA General Counsel concluded in 1985 that the Councils are purely advisory to the Secretary on permit restrictions and thus have considerable latitude in recommending industry-oriented permit conditions. The Secretary retains the sole authority to implement the recommended permit restrictions. A very clear record of the Council's deliberation in recommending permit conditions would increase the chances that the Secretary would follow through on them.

NOAA Legal Advise on U.S. Support Industry Proposal

Attached is the legal opinion we received last April. It ruled out a separate FMP for the domestic support industry, but allowed that permit conditions and restrictions could be applied given a sound argument and public record of deliberation. In Jay Johnson's cover memo to the opinion, he notes that policy considerations would be more important than legal ones. These would include the benefits and costs of a restriction, consistency with GATT, how far such a "Buy America" preference would extend, and whether the Council's accountability to the fish and the fisherman would be diminished.



### Current Council Policy

The Council's Permit Review Policy for joint ventures states that the Council will review requests on a country rather than company basis. It states the Council's intent to give preference to nations whose operations clearly evidence maximum U.S. industry involvement. The three pertinent criteria were listed above. The policy also says that all joint ventures will fish from a common pooled JVP. This removes the ability of the Council to use specific allocations of fish to companies or countries as a reward mechanism.

### Encouraging Use of U.S. Services and Supplies

So what can the Council do to reward joint ventures that use domestic services? Based on my review of our policy and the legal opinions noted above, and recognizing that we are purely advisory on these matters to the Secretary of Commerce, it's clear that the most stringent action the Council could take would be to disapprove a country's request for joint ventures in 1989 by rejecting all of its foreign processor permits. A little less stringent would be to reject just some of the processor permits, making sure that all companies working with a country were equally disadvantaged since our policy calls for a review at the country level. Such a partial disapproval of permits would hamper a nation's ability to compete for available JVP against nation's that had their full complement of processors. Of course, this would also hurt U.S. fishermen in the short, intense fishery that may occur in 1989.

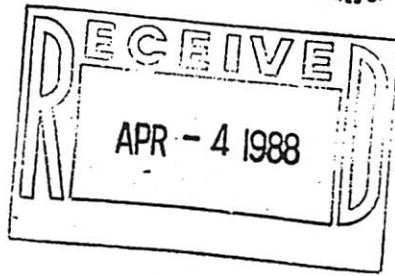
A less severe approach would be for the Council to reject all or part of the support vessel (as opposed to the foreign processor vessel) permits such as for cargo transport or fueling vessels. Joint ventures could then continue to harvest available JVP, but alternative U.S. services would have to be used to support their operations. For example, Poland has applied for 22 cargo and tanker vessels, China for two, and Korea for 20. Substantially reducing these would force the countries to substitute U.S. support services. A problem with this approach is that some of the same foreign transport vessels support fully U.S. operations and shoreside plants.

The Council could also recommend restrictions on permits such as that a foreign processor must purchase a certain percentage of its supplies or fuel from U.S. sources and use U.S. transportation for a prescribed share of its product. What these percentages should be remains illusive and would need considerable access by the Council to confidential data from the U.S. and foreign industries alike. It was very difficult for the Maritime Support Group to even discuss this subject, much less formulate a quantitative measure of seasonal support requirements or available U.S. capacity. Because the Council can not access confidential information, NMFS would have to do the analysis and make the judgement call on whether a country is complying with the permit restriction. NMFS may even need to receive OMB approval to collect this additional information.



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL



April 1, 1988

MEMORANDUM FOR: Regional Fishery Management Councils  
Assistant General Counsels  
Regional Attorneys

FROM: Marilyn Luipold, Staff Attorney *ML*

SUBJECT: Regional Attorneys Meeting - Agenda Item -  
Support Industry Preference

Jim Brennan has asked me to distribute copies of the attached Analysis of the Legal Authority to Provide a U.S. Support Industry Preference under the Magnuson Fishery Conservation and Management Act. He would like to discuss it at the RAM next week with a view toward making it a final opinion.





UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
Washington, DC 20513

OFFICE OF THE GENERAL COUNSEL

March 30, 1988

MEMORANDUM FOR: James W. Brennan  
Deputy General Counsel

FROM: Jay S. Johnson  
Assistant General Counsel

SUBJECT: Support Industry Preference

In the attached memorandum, Marilyn Luipold has thoroughly covered the legal issues involved in establishing a preference for domestic firms that are capable of providing support services to foreign processing vessels as proposed by Mayor Paul Fubs of Unalaska.

I am confident that a "support services fishery management plan" would not be authorized. An amendment to an existing fishery management plan or the use of discretionary permitting authority seems to be a better avenue to pursue if the Council wants to proceed further with this proposal.

As with many issues, it is impossible to provide clear legal conclusions without an underlying rationale. If the sole objective is to provide additional business to U.S. suppliers, there will be significant legal obstacles to overcome in addition to policy considerations. A public record that lays out the pros and cons, the winners and losers, etc., such as would be developed by a full FMP amendment process, is more likely to contain the information we would need to defend a Secretarial decision to establish such a preference.

Having the Secretary provide such a preference solely by use of case-by-case review of foreign permit applications, either those of the foreign processing vessels or those of the foreign support vessels now providing these services, is somewhat less likely to elicit the information that would be needed if the Secretary is challenged in court.

A middle road, that already has some precedent, is to have the North Pacific Council consider a joint venture policy that allocates greater opportunities to those nations that use our domestic suppliers. The Secretary could decide to defer to Council permit recommendations that would have the benefit of full public dialogue.

Assuming that some benefits to the management of the fishery would accrue from placing added constraints on foreign operations



in our EEZ, it may be that policy considerations are much more important than the legal considerations. Among these are:

1. Is it clear that real benefits will outweigh real costs of such a measure? For example, would prices paid to U.S. harvesters decrease if the foreign support services were restricted to some extent? Would costs of enforcement increase or decrease?
2. Is such a measure consistent with Administration trade policy and/or the General Agreement on Tariffs and Trade? From one perspective, Canada's GATT-illegal export controls differ only slightly from this proposal. In Canada, herring cannot be exported until Canadian firms have processed it. Here, fish could not be processed unless U.S. support services were used to some extent.
3. If the Council starts down the road to intentionally benefit someone other than fishermen, where does it stop? So far they are talking only of fuel and shipping services; what about food, crew clothing, spare parts, and indeed the vessels themselves would they be included in a new "Buy America" policy for the EEZ? Could this policy be extended to U.S. processing vessels.
4. If the Council becomes responsible for managing the other benefits it could conceivably provide to other sectors, would this lessen its accountability to the fish and the fishermen? If the Council is responsible, what fiscal resources will it need to do the job properly, and are those resources available?

These are serious public policy questions that need to be resolved by the Council and the Secretary and not by their lawyers.



**DRAFT**

April 1, 1988

MEMORANDUM FOR: Jay Johnson, Asst. General Counsel for Fisheries

FROM: Marilyn Luipold, Staff Attorney *ML*

SUBJECT: Analysis of the Legal Authority to Provide a U.S. Support Industry Preference under the Magnuson Fishery Conservation and Management Act

ISSUE: Whether the Secretary or the Councils have authority to establish an explicit direct economic preference for U.S. support services.

#### PROPOSAL AND BACKGROUND

The proposal is to require foreign factory ships buying fish from United States fishermen to also buy some percentage of their fuel oil and other unspecified supplies from U.S. sources. This would be accomplished in one of three ways; by creating a fishery management plan (FMP) for U.S. support services, by amending the pertinent fishery management plans, or by placing a specific purchase requirement on foreign processor permits to be enforced by denial of subsequent permits (Transshipment At-Sea Proposal For Support Service Priority submitted by Paul Fuhs, Mayor Unalaska/Dutch Harbor, dated October 8, 1987, amended December 1, 1987).

It has been suggested that the legal authority to impose a supply purchase requirement on foreign processor vessels was granted by the 1978 "processor preference" amendment (Pub.L. No. 95-354) and/or the 1983 transformation of the fishery conservation zone into an exclusive economic zone (EEZ)<sup>1</sup> because

<sup>1</sup>Presidential Proclamation 5030 proclaims the sovereign rights of the U.S. and establishes that within the EEZ, the U.S. has, to the extent permitted by international law, sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, both living and non-living, of the seabed and subsoil and the superjacent waters and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds. As the EEZ Proclamation asserts sovereign rights in living and non-living resources, it reaches farther than the Magnuson Act. However, the EEZ Proclamation does not change existing U.S. policies concerning the continental shelf



purchase requirements would result in further economic benefit for U.S. industry from U.S. fishery resources. It has also been suggested that the exercise of such authority has been foreclosed by a prior opinion of the NOAA General Counsel. Analysis of these suggestions requires consideration of how the Magnuson Act has evolved, as well as the language of the statute as it appears today.

The Magnuson Act declares Congress' policy to maintain without change the existing territorial jurisdiction of the U.S. for all purposes other than conservation and management of fishery resources, as well as to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources. Within these broad boundaries, the purpose of the Act in 1976, as well as in amendments passed in 1979 and in subsequent years, has been to maximize the benefit to the United States from the conservation and management of our fishery resources. When enacting the Magnuson Act in 1976, Congress found that a national program for the conservation and management of the fishery resources is necessary to "insure conservation, and to realize the full potential of the Nation's fishery resources" (§2(a)(6)). Subsequent amendments have clarified Congress' intent that these benefits are to flow to the entire U.S. fishing industry - fishermen, processors, and suppliers.

The Act provides U.S. harvesters a right of first access to U.S. fishery resources in that it bars foreign interests from catching fish in the EEZ to the extent U.S. vessels desire, and have the ability to take, those fish. In 1979, Congress amended the act to extend another preference to domestic processors. Implemented by means of a limit placed on the amount of U.S. harvested fish that may be received by foreign processing vessels operating in the U.S. EEZ, it protects domestic processors from direct competition of foreign fish buyers on the fishing grounds. Since Congress has not acted to establish an explicit preference for U.S. suppliers of the fishing industry, the question is whether the Secretary or the Councils have authority to establish a direct economic preference for the U.S. support industry.

#### DISCUSSION

##### 1. A Support Industry FMP is not Authorized by the Magnuson Act.

Section 302(h) of the Magnuson Act directs Councils to prepare fishery management plans with respect "to each fishery within its geographical area of authority". The Act defines "fishery" as:

one or more stocks of fish which can be treated

marine mammals and fisheries. (3 C.F.R. 22, 1983), See U.S. Oceans Policy and Presidential Proclamation 5030, 19 Weekly Comp. of Pres. Doc. 383 (March 10, 1983) Proclamation 5030 reprinted in [1983] U.S. CODE CONG. & AD. NEWS, 3, A28-29. See also note two.

as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and any fishing for such stocks.

Sec. 3(7), (emphasis added).

Since the support industry is not a "fishery" under this definition, it is not possible under the Act to implement a support industry FMP. However, as §302 also directs Councils to prepare amendments to existing FMPs, authority to implement an amendment providing for a support industry preference must be examined.

2. Management measures must be related to conservation and management.

Although the Magnuson Act does not explicitly direct the Councils or the Secretary to provide a special priority to the U.S. support industry, it does furnish the Councils and the Secretary with considerable flexibility to develop and implement new policies with respect to the conservation and management of the EEZ.<sup>2</sup> Section 303(a) of the Act requires that FMPs contain conservation and management measures which are necessary and appropriate for the conservation and management of the fishery and which are consistent with the national standards, other provisions of the Act, and other applicable law. Section 303(b) (8), a broad discretionary provision, authorizes the Secretary to prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery. Conservation and management, as defined by the Act, pertains to fishery resources and the marine environment. Specifically:

The term "conservation and management" refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild, restore, or

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<sup>2</sup>Pub.L. No. 99-659 included amendments to conform the Magnuson Act with the assertion of authority contained in Proclamation No. 5030 on the EEZ. As Congress explained, "Thus, as a general rule, the United States will assert sovereign rights and exclusive management authority over all fish, including anadromous species and continental shelf fishery resources found within the EEZ. Beyond the EEZ, the United States will, as under current law, assert exclusive management authority over all anadromous fisheries, except when such resources are within the territorial seas or EEZs of a foreign nation (to the extent such seas or zones are recognized by the United States) and all continental shelf fishery resources." H.R. No. 99-165 [to accompany H.R. 1533], 99th Cong., 2d Sess. reprinted in [1986] U.S. CODE CONG. & AD NEWS 6249-6286, 6256.



maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that - -

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

Sec. 3(2)

Secretarial interpretation of the term also accepts its use in the broader sense of "wise use" of all resources involved in a fishery. The Secretary's Guidelines for FMPs explain that numerous methods of allocating privileges may be considered "conservation and management measures" under §303 of the Act. An allocation scheme may promote conservation, for example, by encouraging a rational, more easily managed use of the resource, or by optimizing the yield, in terms of size or economic or social benefit of the product. (See 50 C.F.R. §§602.14 and 602.15).

Consequently, the Councils and the Secretary have broad latitude to establish management measures, and comprehensive management is encouraged (see national standard three and 50 C.F.R. §602.13). The Councils, for example, through their optimum yield determinations, are free to incorporate both social and economic considerations. They also have the authority to prohibit, limit, or specify the type and quantity of fishing gear or vessels in a fishery, including measures necessary to facilitate enforcement of the Act (§303(b)(4)). Thus, while measures authorized under these provisions must bear some relationship to the conservation and management of the fishery, conservation and management may include a wide range of actions depending on the goals and objectives in the involved fishery. For this reason, the rationale and justification provided for a specific management measure plays a critical role in the determination of whether it is authorized by the Act.

In the case of the proposed support industry preference, no conservation and management purpose is evident. The stated objective of the proposal is to "increase the economic return to U.S. citizens by allowing for fuller participation by U.S. support firms" (Proposal dated October 1, 1987, amended 12/1/87). Based on this sole objective, the proposed action does not bear a sufficient relation to conservation and management of the fishery so as to be authorized under §303(a)(1)(A) and/or (b)(4), (5), or



(8). If however, for example, the presence of foreign fishery support vessels in the EEZ is shown to pose management or enforcement problems in the fishery, it may be that measures addressing those problems would also indirectly benefit the U.S. support industry. In theory, such measures would be authorized under the Act and could be implemented by an FMP amendment - so long as those management measures were also consistent with the goals of the involved FMP, the national standards, and other applicable law.

3. FMP measures must be consistent with the National Standards for Conservation and Management.

National standards one and five are most pertinent to the proposed U.S. support industry preference. National standard one provides that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the U.S. fishing industry. National standard five provides that conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

As discussed earlier, the U.S. support preference proposed is not linked to conservation and management purposes. Consequently, a finding of consistency with these national standards is difficult. Specifically, national standard one links the benefit to be gained by the U.S. fishing industry to the achievement of the Optimum Yield (OY) for each fishery. "Optimum", with respect to the yield from a fishery, is defined in the Act to mean the amount of fish - - "which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities . . . and which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor" (§3(18)). The specification of OY for a fishery provides the Council with wide latitude to address social and economic issues. It is a decisional mechanism for resolving the Act's multiple purposes and policies, for implementing an FMP's objectives, and for balancing the various interests that comprise the national welfare (See 50 C.F.R. §602.11). Arguably, the industry interests the proposed preference seeks to promote are already considered in the specification of OY, and further developmental advantages for that sector of the industry are not consistent with the Act.

So far as consistency with national standard five is concerned, the standard prohibits only those measures that distribute fishery resources on the basis of economic factors alone and that have economic allocation as their sole purpose. While this support industry preference is difficult to reconcile with national standard five because it only offers economic justifications, further clarification of the intended purposes of the preference may affect its consistency with this national standard. As the Secretary's Guidelines for FMPs explain,

efficient utilization of fishery resources is one way that a fishery can contribute to the Nation's benefit with the least cost to society. Recognizing that the goal of promoting efficient utilization of fishery resources may conflict with other legitimate social or biological objectives of fishery management, the guidelines suggest that where conservation and management measures are recommended that would change the economic structure of the industry or the economic conditions under which the industry operates, the need for such measures must be justified in light of the biological, ecological, and social objectives of the FMP as well as the economic objectives. (50 C.F.R. 602.15).

In addition, the Secretary must consider national standard five in the context of the overall purposes of the Act. The Magnuson Act was enacted in order to establish a comprehensive management program for the fishery resources found off the U.S. coast. By providing an effective conservation and management program, the legislation also established the economic framework within which the U.S. fishing industry can be developed. Specific amendments have clarified Congress' intent that these developmental benefits are to be realized by the entire U.S. fishing industry. (See also the discussion of Pub. L. No. 95-354 at 11-12). Again then, the rationale and justification provided for a specific management measure is important to the Secretary's evaluation of a specific measure. A more extensive presentation of the benefits to be derived from measures that convey a preference to the support industry may indicate that social and/or ecological objectives are furthered as well. If other conservation and management objectives are involved, consistency with national standard five is not an issue. Alaska Factory Trawler Assoc. v. Baldrige, 831 F2d. 1456 (9th Cir. 1987).

In sum, because the Act does not require that economic protections be afforded, in particular, to the U.S. supply industry, and there is no record to tie the proposal to the Act's conservation and management purposes and so bring it within the clear purview of the Council's and the Secretary's discretionary authority under §303, the measures proposed could not be implemented by FMP amendment. However, to the extent this preference, or any other management measure submitted as an amendment, is supported by a record showing it is fair and equitable, linked to conservation and management, not solely for economic purposes, and consistent with the other national standards and applicable law, it could be approved.

4. The Magnuson Act gives the Secretary broad discretion to approve or disapprove foreign fishing applications and to condition or limit those permits for conservation and management reasons.<sup>3</sup>

Section 204(b)(9) of the Act authorizes the Secretary to disapprove<sup>4</sup> an application for foreign fishing permits, but does not provide guidance on appropriate reasons for disapproval. Section 204(b)(6), which treats approval of permit applications is slightly more helpful. It provides:

(A) After receipt of any application transmitted under paragraph (4)(A), the Secretary shall consult with the Secretary of State and, with respect to enforcement, with the Secretary of the Department in which the Coast Guard is operating. The Secretary, after taking into consideration the views and recommendations of such Secretaries, and any comments submitted by any council under paragraph (5), may approve, subject to subparagraph (B), the application, if he determines that the fishing described in the application will meet the requirements of this act, or he may disapprove all or any portion of the application.<sup>5</sup> (emphasis added)

<sup>3</sup>The foreign fishing regulations require each foreign fishing vessel fishing under the Magnuson Act to have a permit unless it is engaged in recreational fishing. Permits to fish are issued for a specific activity, but the permits may be modified by regulations at 50 C.F.R. Part 611 and by conditions and restrictions attached to the permit. The activity codes currently in use are:

- Activity code 1 - catching, scouting, processing and support
- Activity code 2 - Processing, scouting and support
- Activity code 3 - Support
- Activity code 4 - Assisting U.S. fishing vessels as allowed by the other assigned code (joint venture).

<sup>4</sup>While the Secretary's denial of a permit or disapproval of a permit application may be distinguished from the imposition of conditions or restrictions on a permit, at some point permit conditions may become sufficiently burdensome that they amount to a permit denial. The point at which permit conditions become a constructive denial is not treated here. However, as this discussion treats them at times as distinctly different actions, this note is a reminder that in certain instances the distinction may be artificial.

<sup>5</sup>The last phrase in the subparagraph was added by Pub. L. No. 99-659 to "clarify that. . . the Secretary may disapprove individual permits, rather than entire permit applications;"

In the case of an application which specifies that one or more foreign fishing vessels propose to receive at sea U.S. harvested fish from vessels of the United States (called joint ventures or JVs) the Secretary may take into account, with respect to the foreign nation concerned, such other matters as the Secretary deems appropriate (§204(b)(6)(B)(iii))<sup>6</sup>. While the language of §204(b)(6) implies that the Secretary cannot approve an application unless the foreign fishing involved "meets the requirements of this Act", the "may approve" language suggests the Secretary has the authority to deny an application even when those requirements are satisfied. The Act does not provide further guidance with respect to the exercise of this discretionary authority.

Section 204(b)(7) governs the establishment of conditions and restrictions on foreign permits. Under these provisions, when issuing foreign fishing permits, the Secretary must include as conditions and restrictions all the requirements of an applicable FMP and its implementing regulations. If a permit is not issued pursuant to an application approved under paragraph (6)(B), the foreign vessel may not receive at sea U.S. harvested fish from U.S. vessels. With respect to foreign processing vessels authorized to receive U.S. harvested fish at sea, the Act directs the Secretary to specify the maximum amount of such fish that may be taken aboard (§204(b)(7)(D)(E)). In addition, the Act directs the Secretary to establish and include any other conditions and restrictions related to fishery conservation and management which the Secretary prescribes as necessary and appropriate (§204(b)(7)(F)). This last provision assures that the Secretary has sufficient authority to implement a broad range of management policies, when those conditions or restrictions are related to conservation and management of the resource.

In 1985, an expansive interpretation of this provision led NOAA GC to advise the Councils that the Secretary has substantial latitude, as a matter of law, in imposing foreign fishing permit conditions which reflect commercial considerations as well as concerns for conservation of the resource. Robert McManus, then General Counsel of NOAA, believed that, in the absence of a clearer basis in the statute and its legislative history for concluding that the Secretary of Commerce lacks the authority to allocate joint venture processing privileges on the basis of commercial considerations, he would defend a policy decision to

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(applications may consist of many permits). H.R. No. 99-165 [to accompany H.R. 1533] 99th Cong., 2d Sess. 6, reprinted in [1986] U.S. CODE CONG. & AD. NEWS 6249-6286, at 6258.

<sup>6</sup>Subparagraph (B) was added by the Processor Preference Amendments, Pub.L. No. 95-354, in 1978, to implement Congress' intent that domestic processors receive priority access to U.S. fishery resources. It sets out the Secretary's responsibilities when evaluating applications to receive U.S. harvested fish from U.S. vessels in the EEZ.

do so. In his view, the real question to be answered is what conditions should be included in a permit. He further stated that question involved a policy call he did not wish to preempt (letter from Robert J. McManus, General Counsel, NOAA, dated November 19, 1985, and a revised memo from General Counsel, Alaska Region, to the NPFMC Permit Review Committee dated September 24, 1985 (revising memo dated August 11, 1985).

To date, the Agency has not issued a policy statement on the imposition of permit conditions. However, in a recent letter, the Agency expressed the belief that permit conditions have the same effect as regulations and should have the benefit of public input and discussion (March 11, 1988, letter from the Assistant Administrator for Fisheries to Jim Branson, Executive Director, North Pacific Fishery Management Council). No standard procedural requirements have been announced for the imposition of permit conditions under this broad reading of the Act. Each particular situation will require different procedures directed towards according fundamental fairness to applicants and other interested parties. Consequently, application of this expansive view of the Secretary's discretion will require a case-by-case analysis of the standards being applied and the interests at stake in each particular permit application.

5. Despite the flexibility provided by the Act, the Council and the Secretary do not have unlimited authority.

Although the Act provides the Secretary and the councils with broad management authority, these authorities are not unlimited. Some of these limits, for example, the required connection to conservation and management of the resource, have been discussed earlier. In addition, the stated policies of the Magnuson Act impose other limits on the reach of discretionary authority under the Act.

When enacting the Magnuson Act, Congress declared its policy to "maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this Act" as well as "to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this Act" (§2(c)(1) and (2)). These policy statements reveal a tension in the Act between recognized legitimate uses of the seas and the need to conserve and manage U.S. fishery resources. On one hand, the provisions of the Act conveying broad management authority to the Secretary can be cited to show the Act does authorize the proposed U.S. support industry preference. On the other hand, it may be argued that delivery of fuel and supplies to, and offloading of, foreign fish processing vessels is a legitimate use of the seas that should not be impeded if the activity does not pose a threat to fishery resources.

In general, when a statute has conflicting objectives, unless a

particular action is strictly prohibited, courts will show considerable deference to agency efforts to accommodate varied interests. Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 416 (1971); Bowman Transportation, Inc. v. Arkansas-Best Freight System, 419 U.S. 281, 285 (1984); Louisiana v. Baldrige, 538 F. Supp. 625, 630, (E.D. La. 1982). Judicial deference is practically assured if an agency has good factual support for developing a specific policy. Maine v. Kreps, 563 F.2d 1052 (1st Cir. 1977). Agency policy can be developed on a case-by-case basis, or it can be developed by rulemaking. Each process has advantages and disadvantages.

In this instance, it has been suggested that a further economic benefit from our fishery resources could be obtained by imposing a requirement on foreign fish processors to purchase supplies and services from U.S. suppliers. No conservation and management purpose has been suggested, thus raising the question of whether the purchase requirement would be in violation of Congressional intent to maintain "recognized legitimate uses of the high seas". A similar question was addressed by NOAA in 1978.

There, the issue concerned the agency's authority to deny permits on a case-by-case basis to foreign fish processors who wanted to buy fish in the EEZ (then FCZ) from U.S. fishermen. A policy designed to protect U.S. processors from this foreign competition was announced, but later rescinded following a NOAA legal opinion which concluded that the 1976 version of the Magnuson Act established a preference for domestic fishermen, but not processors.<sup>7</sup> The opinion concluded that a processor preference would operate to reduce potential markets for U.S. fishermen, and thus defeat Congressional objectives to increase the amount of fish being caught by U.S. fishermen. Admittedly, the question was considered a close legal call.

Congress responded promptly and through Pub.L. No. 95-354 (the Processor Preference Amendment) gave the agency back virtually the same policy it had originally developed.<sup>8</sup> In enacting the U.S. processor's preference, Congress declared that:

<sup>7</sup> NOAA General Counsel Opinion #61, April 25, 1978, Proposed Policy Governing Applications for Permits by Foreign Vessels for Purchasing or Receiving U.S. Harvested Fish in the Fishery Conservation Zone.

<sup>8</sup>After conducting substantial inquiry into the joint venture issue, the committee stated the issue was one that was not considered or foreseen by Congress during the consideration and enactment of the Magnuson Act. Senate 3050 was therefore introduced in order to provide the Secretary of Commerce with the "legal authority needed to regulate in a comprehensive manner the access of foreign processing vessels to the U.S. fishery conservation zone" this authority is presently absent from the FCMA". S.R. 95-935 [to accompany S.3050], 95th Cong., 2d. Sess. 2, reprinted in [1978] U.S. CODE CONG. & AD. NEWS 1350-1359, 1351.

Section 2(a)(7) of the FCMA finds that a national program for the development of fisheries which are underutilized or not utilized "by United States fishermen" is necessary. S.3050, as reported, clarifies congressional intent that the entire fishing industry should be benefitted by the extended U.S. fishery jurisdiction by substituting "the United States fishing industry" for the "United States fishermen." The industry includes not only the harvesting segment of the fishery, but also the processing segment and incidentally the other various support industries.

In a similar vein, section 2(b)(6) of the FCMA presently provides that one of the purposes of Congress is "to encourage the development of fisheries which are currently underutilized or not utilized by, United States fishermen, including bottom fish off Alaska." S. 3050, as reported, amends this section to clarify congressional intent that such development be "by the United States fishing industry." Thus, Congress intends to encourage the development of U.S. fish processing capability in such fisheries in addition to developing fish harvesting capability."

S.R. No. 95-935 [To accompany S.3050], 95th Cong., 2d Sess. 2, reprinted in [1978] U.S. CODE CONG. & AD. NEWS 1350-1359, at 1352 (emphasis added)<sup>9</sup>

The Processor Preference Amendments provided the Secretary of Commerce with explicit statutory authority to deny foreign processing vessels permits to receive at sea U.S. harvested fish when U.S. fish processors are found to have adequate capacity, and will use that capacity, to process all U.S. harvested fish. However, the policy embodied in the Processor Preference Amendment dealt only with fish processing. The Processor Preference Amendments manifest a particular purpose - that of fostering the development of the U.S. processing industry in fisheries which are underutilized or not utilized by the U.S. fishing industry, they do not address domestic supply and transportation capabilities.

Consequently, as a legal matter, the significance of passage of the Processor Preference Amendments to the question of a support industry amendment is difficult to assess. One view is that the Processor Preference Amendments demonstrate it was "necessary" to

<sup>9</sup>The House Bill (H.R. 10732) was passed in lieu of the Senate Bill (S. 3050) after amending its language to contain much of the text of the Senate bill. The Senate Report is set out in U.S. CODE CONG. & AD. NEWS.

overcome the lack of legal authority exposed by the NOAA legal opinion. If this approach is accepted, the inability of the agency to consider domestic economic factors unrelated to processing capacity probably still exists. In the alternative, enactment of the Processor Preference can be viewed as "ratification" of the NOAA policy and "disagreement" with the NOAA legal opinion. Under this rationale, the ability of the agency to consider domestic economic factors in foreign permit decisions has been confirmed and an explicit standard established based on U.S. capabilities.

With respect to the Secretary's authority to impose conditions on foreign fishing permits, the McManus letter of November 19, 1985 furnishes the most recent NOAA General Counsel guidance, and subscribes to the more expansive reading of the reach of the Secretary's authority. In so doing however, it poses new policy and procedural issues. Assuming the Secretary has the authority to consider domestic economic factors - beyond domestic processing and harvesting capacity and intent - the Secretary will have to address what procedures will apply in each instance. Further, it must be recognized that the U.S. support industry preference being advanced is unlike the Processor Preference established by Congress. The Processor Preference is implemented by means of a limit placed on the amount of fish foreign vessels may receive in the U.S. EEZ from U.S. harvesters. The proposed support preference would be implemented by purchase requirements. In fact, it would provide a greater individual sector preference than has been adopted by Congress, or previously proposed by the agency, for dealing with the processing sector. Neither the NOAA policy or Pub. L. No. 95-354 requires U.S. fishermen to sell all their fish to U.S. processors, and U.S. processors are not required to buy all U.S. harvested fish. Instead, U.S. processors receive only an indirect benefit from their proof of adequate capability in that they are protected from direct competition of foreign fish buyers on the fishing grounds.

To make it truly analogous to the preference the Act provides for U.S. processors, the suggested support industry priority could be focused on discretionary issuance of support vessel permits instead of conditions for processing vessel permits. As it stands, the present proposal is more nearly analogous to the standards used by the Mid-Atlantic Council in making recommendations on foreign squid processing permits. That is, the Council will recommend approval of foreign processing permits connected with shoreside purchases of fish from the same fishery and denial of those permits that are not so connected. It is, however, somewhat easier to find a "conservation and management" connection in a shoreside purchase requirement of the same species, than it is to find one in a purchase requirement for something other than fish. In addition, measures that involve certain purchase agreements may run afoul of the General



## Agreement On Tariffs and Trade (GATT).<sup>10</sup>

In part because the proposed support preference is not directly analogous to the Processor Preference, it is difficult to apply the Processor Preference implementing scheme to the proposed support industry preference. In addition, the existence of NOAA GC Opinion 61, which has never been rescinded, further clouds the issue. However, as the Magnuson Act has been changed to evidence broader U.S. interests beyond harvesting and processing, and the latest GC guidance espouses a much broader reading of the reach of the Secretary's authority, Opinion 61, for all practical purposes, has been overtaken by events. The issues presented here go beyond what was considered in that document.

Of more concern is the "no impediment to, or interference with, recognized legitimate uses of the high seas" language of the Act. It remains, and any management measure that may affect recognized uses of the high seas will have to be analyzed in light of Congress' policies to protect those rights while supporting and favoring the development of the U.S. fishing industry. In addition, the argument can be made that Congress intended to acquire benefits from the EEZ in an explicit three-tiered arrangement. Fishermen would be directly protected. Processors would be indirectly protected by exclusion of foreign at-sea competition. Finally, support services and other industry sectors would not be protected, but would benefit from the increased activity in the harvesting and processing sectors.<sup>11</sup> To date, direct protections, such as export limits, which have

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<sup>10</sup> A detailed discussion of potential General Agreement on Tariffs and Trade (GATT) issues is beyond the scope of this memo. However, recent experience with certain Canadian provincial laws prohibiting the export of unprocessed fish has shown that such restrictions are violative of GATT. A copy of the GATT Panel Report on Canada's Measures Affecting Exports of Unprocessed Herring and Salmon is attached. In order to comport with GATT, and indeed with the economic policy of the U.S., the support preference, in whatever form, can not merely be a non-tariff trade barrier in disguise. It must rest on a sound and real basis in conservation and management.

<sup>11</sup> The legislative history of Pub.L. No. 95-354 announced that the Amendments were intended to establish a preferential right for U.S. processors similar to the preferential right the Magnuson Act created for U.S. fishermen. The actual amendments spell out a set of priorities to govern the licensing procedure for foreign processing vessels. The first and highest priority assigned is to fish caught and processed by the U.S. fishing industry. The second preference is to fish caught by U.S. fishermen and purchased by foreign processing vessels. The lowest priority is given to foreign fishermen. See also the legislative history quoted at p. 10, supra, stating that the industry includes harvesting and processing as well as "incidentally" the other various support industries.

been found to violate GATT, have not been applied.

#### CONCLUSION

The Magnuson Act does not authorize a support industry FMP. While the overall purpose of the Act is to foster and encourage the development of the U.S. fishing industry, the Act does not require that economic protections be accorded the U.S. support industry. In addition, although the Act provides a large measure of discretionary authority to the Councils and the Secretary, the Act limits the exercise of much of that discretionary authority to measures which bear some relationship to conservation and management. Consequently, the proposed support preference's lack of a conservation and management rationale argues against its implementation as an FMP amendment.

With respect to the Secretary's discretion to implement the proposed preference by means of foreign fishing permits, the agency has more latitude. For example, a foreign nation's use of domestic support services could be used as a valid criteria for selecting among competing JVs. In addition, the added emphasis in the "post processor preference" statute on "the fishing industry" makes the statutory basis for a support preference stronger than when NOAA Opinion 61 was drafted, and the more recent expansive McManus opinion reveals that the policy questions that attend imposing conditions which reflect commercial considerations may eclipse questions of the Secretary's legal authority to impose such conditions. Furthermore, an important question is whether the inferences to be drawn from the statute's added emphasis on the "fishing industry" overcome the "no impediments" policy of the Act.

The Magnuson Act does not dictate an absolute "yes" or "no" answer. To a large degree, the facts advanced to support a specific action will control the result.

#### Attachments

- McManus ltr of Nov. 19, 1985 w/attachments
- Evans ltr of Mar. 11, 1988
- Nov. 1987 GATT Panel Report on Canada's Measures Affecting Exports of Unprocessed Herring and Salmon



Alaska Joint Venture Seafoods, Inc.

December 2, 1988

North Pacific Fisheries Management Council  
P.O. Box 103136  
Anchorage, AK 99510

Attn: John G. Peterson, Chairman

Gentlemen:

Alaska Joint Venture Seafoods (AJVS) is requesting preliminary approval from the Council for an allocation to harvest snails in the Bering Sea. A portion of the allocation is requested by AJVS as a joint venture. The majority is requested as a direct allocation to the Soviet Union.

For a number of years until 1987 the Japanese conducted a snail fishery in the eastern Bering Sea. At that time the allocation was withdrawn. According to NMFS and other federal officials, the decision to cancel the allocation was not based on biological factors concerning the snail resource. Federal biologists with whom we have spoken consider the resource underutilized. Even at the time of the Japanese harvest, boats engaged in the fishery were operating on only a small portion of the snail's range.

Along with other Alaskan businessmen and state officials, I recently participated in the Governor of Alaska's trade mission to the USSR. The ten day mission was designed to promote increased trade and improved relations between the United States, Alaska and the Soviet Union. The mission followed the much publicized "Friendship Flight" exchanges which took place this past summer and fall. Several initial trade and cultural agreements were reached.

The Soviets expressed a strong interest in fishing for snails in the U.S. waters of the Bering Sea and in future joint venture agreements in both U.S. and Soviet waters. While U.S./Soviet relations are extremely dynamic and new ground is being broken almost daily, Soviet officials wish to proceed with caution.

I respectfully suggest that as an appropriate first step, the Council approve in principle the AJVS request and forward a letter of endorsement to AJVS. Both NMFS and the State Department must review the request prior to any final grant to the Soviet Union. However, the Council's letter of endorsement to AJVS will demonstrate to the Soviets an initial level of commitment sufficient for them to provide the additional information required to obtain final approval.

Attached is a partially completed permit application containing supplemental information on several issues of particular interest to the Council, including bycatch and joint research. The remaining information regarding participating vessels, etc., will be included in the permit application prior to review by NMFS.

North Pacific Fishery Management Council  
December 2, 1988  
Page 2

AJVS, therefore, requests Council support for an allocation equal to the previous allocation granted to the Japanese to be directed as follows:


JV	200 MT/edible meats
TALFF	2800 MT/edible meats
TOTAL	3000 MT/edible meats

There are two primary genera and several species which commonly comprise the catch. Quotas are for all species combined.

AJVS representatives will be available during the Council meeting to answer any additional questions. Thank you for your consideration.

Sincerely,

AJVS, INC.

  
William D. Phillips  
President

WDP:sh

Encl. - 2

THE UNITED STATES OF AMERICA  
 DEPARTMENT OF COMMERCE  
 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

APPLICATION FOR VESSEL PERMITS TO FISH WITHIN  
 THE EXCLUSIVE ECONOMIC ZONE  
 FOR DIRECTED FISHING AND TO RECEIVE U.S. HARVESTED FISH (JV)  
 FROM VESSELS OF THE UNITED STATES

Under the provisions of the Magnuson Fishery Conservation and Management Act, the Government of Soviet Union submits this permit application for vessels operating under its flag to fish within the exclusive economic zone of the United States, or beyond that zone for anadromous species during the year 1989.

Fishing Vessel Identification Forms and supplemental sheets describing any joint venture operation are attached to this application. The fisheries, species, and catch contemplated in this application for vessels of the U.S.S.R. flag are as follows:

Fishery	Species	Total Tonnage Requested For Each Species (MT)	
		<u>Directed</u>	<u>Joint Venture</u>
SNA	Neptuna & Buccinum	2800 (edible meats)	200 (edible meats)

Submitted: \_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Official's Title

Detailed descriptions of the vessels and the methods of operation with U.S. vessels proposed for each fishery are attached as a supplement to this application.

Yes  No

SUPPLEMENTAL INFORMATION TO  
APPLICATION FOR VESSEL PERMIT TO -  
FISH WITHIN THE EXCLUSIVE ECONOMIC ZONE  
FOR DIRECTED FISHING AND TO RECEIVE U.S. HARVESTED FISH (JV)  
FROM VESSELS OF THE UNITED STATES

Venture Description:

The venture will involve harvest of snails from the waters of the Bering Sea by vessel(s) of the United States for delivery to vessels of the Soviet Union.

The United States vessel which has agreed to deliver U.S. harvested snails is the F/V Polar Star. The right is reserved to increase the number of vessels as necessary. Foreign vessels to be employed have not been specified at this time. Geographical area in which the vessels will primarily operate is the Eastern Bering Sea. Product to be produced is edible meat of processed, cooked snails. Anticipated markets include Japan and other Pacific Rim countries.

The United States entity who will coordinate these operations with the foreign company is: Alaska Joint Venture Seafoods, Inc. (AJVS)  
2550 Denali St., Suite 1406  
Anchorage, AK 99503  
Telephone: 907-279-0808  
Fax: 907-279-0811  
Telex: 332471 (APANC)

AJVS will also be the American partner and principal contact with owners/operators of vessels of the United States.

During the years of the Japanese snail fishery, relative bycatch varied considerably from boat to boat, exhibiting an average of about ten percent (10%) by weight. The bycatch was comprised of pacific cod and primarily female opilio tanner crab. Since some vessels experienced very little bycatch, fishing practices which reduce bycatch can be effectively employed and will be utilized. In addition, a review of past observer data indicates that most all bycatch crab were alive when brought on board. On some vessels, careful handling practices on deck insured that crab were returned overboard with little mortality. Such practices will be followed.

One of the benefits of a renewed snail fishery under this application is the opportunity for further research. While Japanese boats were observed and a fair amount of data was collected concerning fishing practices, there has been little opportunity to collect and analyze data regarding basic snail biology. The last specific scientific research was conducted by a Japanese team which tagged snails during the 1980 season. Much could be gained from research concerning biomass estimates, recruitment and commercial age. Such information would aid U.S. officials in long-term management of the snail resource and future domestic fisheries. AJVS and Soviet representatives have discussed cooperative research as a component of the requested fishery. Such activity is consistent with the current growth in U.S./Soviet cooperative scientific research efforts, particularly focused on the Alaska/Siberia frontier.

Revised 1989 TALFF requests:

JAPAN

Pollock	8,430	mt
Yellowfin sole	1,905	mt
Greenland Turbot	9,344	mt
Arrowtooth flounder	5,997	mt
Rock sole	26,123	mt
Other flatfish	40,777	mt
Pacific cod	72,225	mt
POP	25	mt
Other rockfish	24	mt
Sablefish	35	mt
Atka mackerel	12	mt
Squid	363	mt
Others	5,810	mt
Total	171,070	mt

1989 Foreign Vessel Permit Requests. by Nation

Joint Ventures

<u>Country</u>	<u>Processors</u>	<u>Cargo</u>	<u>Tankers</u>	<u>Total</u>
Iceland	1	0	0	1
Japan	105 a/	117	3	225
Poland	42	20	2	64
PRC	6	2	0	8
ROK	32	19	1	52
<del>Spain</del>	<del>4</del>	<del>0</del>	<del>0</del>	<del>4</del>
USSR	23	0	0	23
Total	213	158	6	377

Directed Fishing

<u>Country</u>	<u>Processors</u>	<u>Cargo</u>	<u>Tankers</u>	<u>Total</u>
Japan	123 b/	0	0	123

a/ Includes 18 vessels listed as cargo but who also requested permits for "scouting" processing.

b/ Includes all 87 vessels requested for joint ventures and an additional 36 processors.



*Japan*

NATIONAL FEDERATION OF MEDIUM TRAWLERS

NO.	VESSEL NAME	CALL SIGN	PERMIT NO.
<del>501</del>	<del>SHOYO MARU A)</del>	<del>JAJA</del>	<del>JA-89-1394</del>
502	KOHOKU MARU NO.7	JDPD	JA-89-1191
503	TOMI MARU NO.81	JDOI	JA-89-1192
504	TOMI MARU NO.82	JDOS	JA-89-1193
<del>505</del>	<del>TORA MARU NO.58</del>	<del>7LHL</del>	<del>JA-89-1190</del>
<del>506</del>	<del>MANRYO MARU NO.52</del>	<del>7LRR</del>	<del>JA-89-1189</del>
<del>507</del>	<del>KAIUN MARU NO.65</del>	<del>7LVY</del>	<del>JA-89-2010</del>
508	TOMI MARU NO.51	JDPH	JA-89-1197
509	TOMI MARU NO.55	<del>JRCE</del> <del>JRGT</del>	<del>1171</del> JA-89-0437
<del>510</del>	<del>NISSHIN MARU NO.51</del>	<del>JKEY</del>	<del>JA-89-1188</del>
<del>511</del>	<del>HOKUYU MARU NO.68</del>	<del>JAJG</del>	<del>JA-89-1177</del>
<del>512</del>	<del>KAIYO MARU NO.15</del>	<del>JAKR</del>	<del>JA-89-1176</del>
<del>513</del>	<del>TAISEI MARU NO.35</del>	<del>JKEP</del>	<del>JA-89-0636</del>
<del>514</del>	<del>HAMAYOSHI MARU NO.63</del>	<del>JBLS</del>	<del>JA-89-1187</del>
<del>515</del>	<del>KOEI MARU NO.20</del>	<del>JKIF</del>	<del>JA-89-1576</del>
<del>516</del>	<del>YROAN MARU NO.21</del>	<del>7JEI</del>	<del>JA-89-1172</del>
<del>517</del>	<del>TENYU MARU NO.57</del>	<del>JBSO</del>	<del>JA-89-0637</del>
<del>518</del>	<del>RYUJIN MARU NO.21</del>	<del>JBDQ</del>	<del>JA-89-0634</del>
<del>519</del>	<del>FUKUCHO MARU NO.11</del>	<del>JFUT</del>	<del>JA-89-1537</del>
520	DAIKICHI MARU NO.5	JGUX	JA-89-0187
521	FUKUSHIN MARU NO.8	7LAM	JA-89-0555
522	SHINEI MARU NO.63	8LWF	JA-89-1196
523	ANYO MARU NO.15	7KJI	JA-89-0104
<del>524</del>	<del>SHOEI MARU NO.5</del>	<del>JBTE</del>	<del>JA-89-0639</del>
<del>525</del>	<del>EIKYU MARU NO.75</del>	<del>JFYW</del>	<del>JA-89-1541</del>
526	TEISHO MARU NO.68	JKPA	JA-89-1547
527	FUKUHO MARU NO.78	JKLY	JA-89-1548
528	RYUHO MARU NO.51	JFZE	JA-89-1572
529	DAIKICHI MARU NO.1	7KLV	JA-89-1198
530	DAIKICHI MARU NO.51	JFUK	JA-89-0484
531	FUKUYOSHI MARU NO.58	JFUO	JA-89-1536
532	KOEI MARU NO.51	JITW	JA-89-1173
<del>533</del>	<del>YAKUSHI MARU NO.51</del>	<del>JBCW</del>	<del>JA-89-0638</del>
534	SEITOKU MARU NO.107	JNRS	JA-89-

J/V

17

Total 17 J/V Vessels

New Application Request ( 1989 )

J/J

North Pacific Longline Association

Vessel Name	Vessel Call Sign	Permit Number
▷ Tsune Maru No.31	JHNT	89-JA-0601
▷ Kiyō Maru No.55	JKRL	89-JA-0602
▷ Fukuyoshi Maru No.26	7LOY	89-JA-0644
▷ Fukuyoshi Maru No.8	JAPO	89-JA-0624
▷ Hatsue Maru No.68	JAWR	89-JA-0562
▷ Eikyu Maru No.12	7KOS	89-JA-0124
▷ Sumiyoshi Maru No.53	JLFJ	89-JA-0608
▷ Matuei Maru No.88	JKSK	89-JA-0609
② Ebisu Maru No.88	7LHO	89-JA-0118
Mito Maru No.82	JGSN	89-JA-0611
② Tomi Maru No.88	JLKO	89-JA-0612
Shintoku Maru No.25	JLLU	89-JA-0613
Shinko Maru No.11	7KKQ	89-JA-0119
Choyo Maru No.81	7JST	89-JA-0615
Tenyu Maru No.37	JMOT	89-JA-0616
Ryuhō Maru No.38	8JWZ	89-JA-0557
Koei Maru No.10	JFXB	89-JA-0149
Koei Maru No.56	JQNZ	89-JA-0618
Ryusho Maru No.15	JIES	89-JA-0619
Ryusho Maru No.18	JIXH	89-JA-0620
② Anyo Maru No.21	JAOF	89-JA-0621
② Anyo Maru No.22	JIXS	89-JA-0622

Total 4 J/V Vessels

Gear type: Bottom Longline  
(hook and line)

All 22 for direct.

Japan Deep Sea Trawlers Association

J/V  
D/E

1989 THE LIST OF JAPANESE VESSELS (FISHING VESSEL)

	VESSEL NAME	IRCS	PERMIT NO.	FISHERY / ACTIVITY				
				BSA	GOA	SNA	NWA	WOC
1001	MINESHIMA MARU	JPQQ	JA-89-0080	2,4	2,4			2,4
1002	HOKKAI MARU	JCLP	JA-89-0012	1,4	1,4			1,4
1003	HAKUREI MARU	JCLP-1	JA-89-0013	1,4	1,4			1,4
1004	HOKUSHIN MARU	JCMP	JA-89-0014	1,4	1,4			1,4
1005	HOKUTO MARU	JCMP-1	JA-89-0015	1,4	1,4			1,4
1006	CHIKUZEN MARU	JJCJ	JA-89-0199	1,4	1,4			1,4
1007	YAMATO MARU	JBGF	JA-89-0339	1,4	1,4			1,4
1008	RIKUZEN MARU	JSDS	JA-89-0340	1,4	1,4			1,4
1009	MIYAJIMA MARU	JAAB	JA-89-1540	1,4	1,4			1,4
1010	NIITAKA MARU	JDZN	JA-89-0289	1,4	1,4			
1011	TAKACHIHO MARU	JPBU	JA-89-0291	1,4	1,4		1	
1012	KOYO MARU NO.2	JHSW	JA-89-0297	1,4	1,4			
1013	ZAO MARU	JNRJ	JA-89-0361				1	
1014	HOYO MARU	JQQV	JA-89-0190	2,4	2,4			2,4
1015	KAKUYO MARU NO.1	JFQM	JA-89-0210	1,4	1,4			1,4
1016	KAKUYO MARU NO.2	JFQM-1	JA-89-0211	1,4	1,4			1,4
1017	KAKUYO MARU NO.7	JKZS	JA-89-0214	1,4	1,4			1,4
1018	KAKUYO MARU NO.8	JKZS-1	JA-89-0215	1,4	1,4			1,4
1019	KAKUYO MARU NO.18	JBRD-1	JA-89-1574	1,4	1,4			1,4
1020	KAKUYO MARU NO.17	JBRD	JA-89-1575	1,4	1,4			1,4
1021	KAKUYO MARU NO.11	JQMN	JA-89-2008	1,4	1,4			1,4
1022	KAKUYO MARU NO.12	JQMN-1	JA-89-2009	1,4	1,4			1,4
1023	KOYO MARU NO.3	JDXF	JA-89-0343	1,4	1,4			1,4
1024	KOYO MARU NO.8	JNRW	JA-89-	1,4	1,4			1,4
1025	SOYO MARU	JMFX	JA-89-0240	2,4	2,4			
1026	AKASHI MARU NO.66	JKIJ	JA-89-0168	1,4	1,4			
1027	AKASHI MARU NO.67	JKIJ-1	JA-89-0169	1,4	1,4			
1028	AKASHI MARU NO.11	JRON	JA-89-1530	1,4	1,4			
1029	AKASHI MARU NO.12	JRON-1	JA-89-1531	1,4	1,4			
1030	TENYO MARU NO.2	JETD	JA-89-0332	1,4	1,4			
1031	TENYO MARU NO.3	JFJO	JA-89-0333	1,4	1,4			
1032	TENYO MARU NO.5	JGVD	JA-89-0334	1,4	1,4			
1033	TENYO MARU	JCEC	JA-89-0352	1,4	1,4			
1034	BANSHU MARU NO.6	JHYS	JA-89-0373				1,4	
1035	BANSHU MARU NO.7	JIMK	JA-89-0374				1,4	
1036	TAIYO MARU NO.83	JIGP	JA-89-0380				1,4	
1037	CHIYO MARU	7JOD	JA-89-0197	1,4	1,4			
1038	ZUIYO MARU NO.3	JKFQ	JA-89-0331	1,4	1,4			

1989 THE LIST OF JAPANESE VESSELS (FISHING VESSEL)

	VESSEL NAME	IRCS	PERMIT NO.	FISHERY / ACTIVITY				
				BSA	GOA	SNA	NWA	WOC
1039	✓ AKEBONO MARU NO.77	JAWM	JA-89-0157	1,4	1,4			1,4
1040	✓ AKEBONO MARU NO.31	JBVU	JA-89-0306	1,4	1,4			1,4
1041	✓ AKEBONO MARU NO.18	JNMI	JA-89-0315	1,4	1,4			
1042	✓ AKEBONO MARU NO.72	8LZR	JA-89-0338	1,4	1,4			1,4
1043	✓ AKEBONO MARU NO.3	7KIM	JA-89-0105	1,4	1,4			
1044	✓ AKEBONO MARU NO.22	JEES	JA-89-0317	1,4	1,4			
1045	✓ KAIYO MARU NO.115	JKYK	JA-89-1153	1,4	1,4			
1046	✓ DAIAN MARU NO.188	JAFV	JA-89-0553	1,4	1,4			
1047	✓ SHUNYOO MARU NO.118	JKFJ	JA-89-0564	1,4	1,4			
1048	✓ ZUIHOO MARU NO.28	JBXQ	JA-89-0565	1,4	1,4			
1049	✓ SHINNICHI MARU NO.68	JBST	JA-89-0308	1,4	1,4			
1050	✓ SHINNICHI MARU NO.38	JBRT	JA-89-0563	1,4	1,4			
1051	✓ OHTORI MARU	JDMJ	JA-89-0342	1,4	1,4			
1052	✓ DAISHIN MARU NO.28	7JMH	JA-89-0569	1,4	1,4			
1053	✓ CHIKUBU MARU	JCTA	JA-89-0336	1,4	1,4			
1054	✓ TSUDA MARU	JFTB	JA-89-0337	1,4	1,4			
1055	✓ RYUYO MARU	JQET	JA-89-0280	1,4	1,4			
1056	✓ ZUIYO MARU	JRHA	JA-89-0335	1,4	1,4			
1057	✓ ANYO MARU NO.11	JBUA	JA-89-0541	1,4	1,4			
1058	✓ ANYO MARU NO.18	7JUN	JA-89-1175	1,4	1,4			
1059	✓ ANYO MARU NO.1	JHGA	JA-89-1552	1,4	1,4			
1060	✓ TOMI MARU NO.87	7LNQ	JA-89-0198	1,4	2,4			
1061	✓ TOMI MARU NO.86	7LQC	JA-89-0222	1,4	2,4			
1062	✓ TOMI MARU NO.58	7LGH	JA-89-0643	1,4	2,4			
1063	✓ TOMI MARU NO.83	7KWC	JA-89-1170	1,4	2,4			
1064	✓ KOSHIN MARU NO.3	JGMK	JA-89-0192	1,4	1,4			1,4
1065	✓ KOSHIN MARU NO.21	7KML	JA-89-0525	1,4	1,4			1,4
1066	✓ KOSHIN MARU NO.1	JGCR	JA-89-	1,4	1,4			1,4
1067	✓ FUKUYOSHI MARU NO.38	JFCK	JA-89-0304	1,4	1,4			1,4

3/5 Total 66 vessels

TABLE 2.

JOINT VENTURE REQUESTS (MT) BY COUNTRY FOR 1989

<u>Country</u>	<u>Pollock</u>	<u>Pacific cod</u>	<u>Atka mackerel</u>	<u>Yellowfin Sole</u>	<u>Flatfish</u>	<u>Other</u>	<u>Total</u>
Japan	520,000	70,000	4,000	95,000	26,000	--	715,000
ROK	405,170	38,956	36,000	102,824	18,396	16,450	617,796
USSR	--	56,000	7,000	116,000 <sup>1/</sup>	--	--	179,000
Poland	30,000	--	--	--	--	--	30,000
China	22,000	3,000	3,000	40,000	10,000	--	78,000
Iceland	1,800	30,000	1,700	1,800	--	--	35,300
Spain	<u>1,000</u>	<u>19,000</u>	<u>--</u>	<u>--</u>	<u>--</u>	<u>--</u>	<u>20,000</u>
TOTAL	979,970	216,956	51,700	355,624	54,396	16,450	1,675,096

<sup>1/</sup> Includes other flatfish.

TABLE 3

JOINT VENTURE REQUESTS FOR 1989 BY SPECIES AND AREA  
 (IN METRIC TONS)

	<u>BSAI</u>	<u>GOA</u>
<b>POLLOCK</b>		
Japan	520,00	0
Spain	800	200
Korea	394,170	11,000
Poland	30,000	0
China	20,000	2,000
Iceland	1,800	0
Total	<u>966,770</u>	<u>13,200</u>
Alaska-wide		979,970
<b>PACIFIC COD</b>		
Japan	60,000	10,000
Spain	16,000	3,000
Korea	37,256	1,700
USSR	56,000	0
China	3,000	0
Iceland	22,000	8,000
Total	<u>194,256</u>	<u>22,700</u>
Alaska-wide		216,956
<b>YELLOWFIN SOLE</b>		
Japan	95,000	
Korea	102,824	
USSR	116,000	
China	40,000	
Iceland	1,800	
Total	<u>355,624</u>	
Alaska-wide		355,624
<b>FLATFISH</b>		
Japan	16,000	10,000
Korea	17,496	900
China	10,000	0
Total	<u>43,496</u>	<u>10,900</u>
Alaska-wide		54,396
<b>ATKA MACKEREL</b>		
Japan	4,000	0
Korea	35,200	800
USSR	7,000	0
China	3,000	0
Iceland	1,700	0
Total	<u>50,900</u>	<u>800</u>
Alaska-wide		51,700
<b>OTHER</b>		
Korea	15,450	1,000
Alaska-wide		16,450
<b>TOTAL</b>		
Japan	695,000	20,000
Spain	16,800	3,200
Korea	602,396	15,400
USSR	179,000	0
Poland	30,000	0
China	76,000	2,000
Iceland	27,300	8,000
Total	<u>1,626,496</u>	<u>48,600</u>
Alaska-wide		1,675,096