

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director

DATE: September 23, 1994

SUBJECT: International Fisheries

ESTIMATED TIME
.5 HOURS

ACTION REQUIRED

Receive Law of the Sea Committee report and review international agreements and State of Alaska concerns.

BACKGROUND

In August Chairman Lauber appointed a committee to review the United Nations Convention on the Law of the Sea (UNCLOS) and assess its potential ramifications for other agreements that affect North Pacific fisheries. The committee's membership includes Dave Hanson (Chair), Dave Benton, Dave Benson, Harold Sparck, and Greg McIntosh. They met Wednesday evening, September 28, and will report their findings to the Council.

The following information summarizes the conventions and agreements that have been developed over the past five years. The summary ends with several points of concern raised by the State of Alaska.

UN Convention on the Law of the Sea (UNCLOS)

The Law of the Sea Convention has been moving slowly along since it was concluded in 1982. It provides a comprehensive legal framework governing uses of the oceans, and in particular, sets forth rights and obligations of countries with respect to conserving marine living resources, including coastal fisheries, straddling stocks, and highly migratory species and marine mammals. The U.S. has never signed it because of objections to the seabed mining provisions. Since 1990, however, those sections have been revised to provide the U.S. and other countries with major economic interests, a voice in decision-making commensurate with those interests. An agreement on seabed mining was signed by the U.S. on July 29, 1994, and the entire LOS convention will enter into force on November 16, 1994. It will be transmitted to the Senate for advice and consent early in 1995.

UNCLOS recognizes the sovereign rights of coastal nations to conserve and manage fisheries within their EEZs, and most living marine resources are now under the control of coastal nations. The sticking point, however, is when a stock ranges outside an EEZ and is fished by other countries. While UNCLOS provides an overall legal framework for rights and obligations of countries with respect to using the oceans, much of the detail work on high seas fisheries is left up to side conventions and agreements. Below are described several agreements that have been developed over the past few years. I do not have copies of all agreements, but could furnish them upon request.

Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean

This convention was signed on February 11, 1992 by the U.S., Canada, Japan, and Russia. It replaced the U.S.-Canada-Japan International Convention for the High Seas Fisheries of the North Pacific (INPFC), ending directed high seas fishing for North Pacific salmon and protecting U.S. origin salmon species.

Global Large Scale High Seas Driftnet Moratorium

The driftnet moratorium was adopted in 1991 by the UN as a worldwide moratorium beginning in 1993. The moratorium has been particularly effective in keeping Taiwanese squid boats from targeting Alaska-origin salmon in North Pacific waters. NOAA reported in July that the moratorium seemed to be holding and that the U.S. Coast Guard had not detected any large scale driftnet fishing in the North Pacific this year.

Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas

This is called the Flagging Agreement and was adopted by the Food and Agriculture Organization (FAO) on November 24, 1993. Its two objectives are to impose on all countries whose vessels fish the high seas, obligations to make their activities consistent with conservation and management needs, and secondly, to increase the transparency of all high seas fishing operations through the collection and dissemination of data. A main goal is to eliminate the practice of fishing vessels flying flags of countries that do not participate in multilateral fishery organizations so they can avoid fishing restrictions. Implementing the agreement in the U.S. will require new legislation. The FAO also is working to develop a broader International Code of Conduct for Responsible Fishing which will address such areas as fishing operations, fishery management practices, aquaculture development, coastal fisheries and coastal area management, and fishery research. The FAO is expected to conclude its work on the Code and adopt it by the end of 1995.

Convention on the Conservation and Management of the Pollock Resources in the Central Bering Sea

This convention was signed on June 16, 1994, but has yet to be ratified by our Senate. Nonetheless, all major parties to the agreement, Japan, Russia, Korea, China, Poland and the U.S., have refrained from fishing in the Donut Hole. The convention placed a moratorium on fishing in the Donut Hole and established a management regime to govern fishing once the stocks recover. The convention is summarized in item C-9(a). The Administration is preparing it for submission to the Senate for advice and consent.

UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks

This conference was initiated by the UN Conference on Environment and Development (UNCED) in 1992 to elaborate on the fisheries management principles outlined in the Law of the Sea Convention. The purpose was to fill in some of the blanks left by the Law of the Sea Convention, particularly how coastal and distant-water fishing nations should cooperate to manage straddling and high seas migratory fish stocks. It was felt that even though regional fisheries organizations had been established in some cases to deal with this type of management problem, they sometimes have been unsuccessful because they lack enforcement clout, dispute resolution mechanisms, and leverage over non-members. The U.S. felt the situation demanded a more comprehensive and binding set of international rules.

The UNCED proposal for an international fisheries conference was endorsed by the UN General Assembly in December 1992 and the organizational session for the conference was held in New York in April 1993. In subsequent sessions of the conference in 1993 and 1994, it became apparent that none of the major distant-water fishing countries was interested in negotiating a treaty. They preferred a non-binding statement of principles.

In March 1994, the U.S. indicated it was flexible on the issue of a treaty versus a statement of principles. By June, however, the U.S. had moved to a position of favoring a binding treaty, which apparently was an effort to balance the needs of two different sectors within the U.S., the coastal fisheries sector and important distant water fleets.

The U.S. position in the UN Conference has been to promote regional fishery organizations as the appropriate venue for resolving coastal and distant water conflicts. The Straddling Stocks Conference was setting the parameters for settling disputes among harvesting nations by requiring all to become responsible managers and comply with regulations established by the regional organizations. The Administration has emphasized all along that it strongly supports the Central Bering Sea Convention and positions taken on other straddling stocks. It wants to ensure that high seas fishing on straddling stocks is controlled, so that the management regimes of the adjacent coastal nations are not undermined. The Administration is also seeking a much stronger conservation ethic by promoting a precautionary approach that would be based on distinct management reference points to guide fishery conservation and management decisions, would encourage environmentally safe harvest technologies, and would promote a multispecies ecosystem approach that protects target stocks and associated species, including marine mammals and sea turtles. The Administration seeks to strengthen existing regional fisheries organizations and to require countries to either join or comply with the regulations of these organizations. The Administration states that none of its efforts is intended to infringe on the domestic fisheries management rights of the U.S., through the regional fishery management councils, for fisheries occurring entirely within the U.S. EEZ.

The most recent session of the Conference on Straddling Stocks and Highly Migratory Species was held in New York on August 15-26, 1994. The U.S. representative, Larry Snead, remarked at the beginning of the session that the U.S. had decided to support strict enforcement, compulsory and binding dispute settlement, and using a precautionary approach throughout the biological range of the stocks when applying conservation and management measures. He also said that members of fishery organizations should consent to the boarding and inspection of their vessels fishing on the high seas, and that this approach must be extended to vessels of non-members of the organization.

State of Alaska Concerns with the U.S. Position on Straddling Stocks

A copy of David Benton's testimony on July 21, 1994 before the Senate Committee on Commerce, Science, and Transportation is under item C-9(b). There he speaks to complications that may arise between the proposed straddling stocks convention and existing arrangements to manage pollock and salmon. He identifies two concerns with the U.S. position on binding agreements and international arbitration within UNCLOS.

First, the U.S. position to accept binding agreement could cause problems with management of the Central Bering Sea pollock stocks. The general language of the convention text may lead to an overall degradation of standards for regional agreements to address straddling stocks, because coastal states may not have a strong enough lead in managing stocks that are mainly within the EEZ, but also range beyond 200 miles. Further, management of Aleutian Basin stocks and dispute resolution could be left under the authority of an unidentified international tribunal. This would run counter to the strong positions taken by the U.S. in the existing convention for the Donut Hole pollock resource.

Second, UNCLOS will require all parties to resolve disputes through international arbitration. The decisions of an international tribunal are binding and generally not subject to appeal. Once UNCLOS is signed the driftnet and Donut issues could be called before an international tribunal. The U.S. would be bound by their decision even if it runs counter to other agreements already embraced by the U.S. The effectiveness of existing regional agreements would be called into question, and potentially could be undermined by a country that is not a party to the regional organizations established to resolve management issues. Mr. Benton argues that the U.S. should

secure specific language at the UN Conference on Straddling Stocks affirming the primacy of coastal states with regard to straddling stocks throughout their range and a reaffirmation of the driftnet ban.

Mr. Benton will be with us to explain his concerns more fully. I have a few copies of the draft agreement relating to straddling stocks. The agreement is quite lengthy and is available upon request.

**Convention on the Conservation and Management of the Pollock Resources
in the Central Bering Sea.**

(Signed on June 16, 1994)

SYNOPSIS

Party Nations. Six original Party Nations include: U.S., Russia, Poland, China, Japan, and South Korea. Other nations can join if unanimously accepted by Party Nations. At least four Party Nations, including the U.S. and Russia, need to ratify the Convention for it to become effective. After 3 years, any Party Nation may withdraw after giving 12 months advanced notice.

Each Party Nation has one vote. Decisions will be made by consensus on all matters of substance such as setting harvest levels and country allocations, etc. Other matters may be decided through majority votes. Party Nations will hold an annual conference at which they will decide whether there will be a fishery in the Donut Hole the next year. Even if no directed fishery is allowed, the Annual Conference may allow trial fisheries for pollock in accordance with an approved research plan.

Setting Pollock Harvest Levels. The Annual Conference will establish by consensus the Allowable Harvest Level (AHL) for the next year, based on an assessment of the Aleutian Basin biomass by the Science and Technical Committee which will have at least one representative from each Party Nation. The Committee will review biomass information provided by one institution in each the U.S. and Russia. If there are insufficient data to determine Aleutian Basin pollock biomass directly, then the Aleutian Basin biomass will be assumed to be 1.667 times the biomass determined by the U.S. for Area 518.

If Party Nations cannot reach consensus, then the following formula will be used to set AHL:

If biomass is less than 1.67 million metric tons (mmt), AHL is zero.

If biomass is 1.67 - 2.0 mmt, AHL is 130,000 mt.

If biomass is 2.0-2.5 mmt, AHL is 190,000 mt.

If biomass is greater than 2.5 mmt, determine AHL by consensus at annual conference.

National Quotas. Non-transfereable individual national quotas (INQs) of pollock shall be established by consensus and combined, cannot exceed the AHL. If consensus on national quotas cannot be achieved, then a derby style fishery for all Party Nations shall be held under an appropriate conservation and management regime

Monitoring and Compliance. Each Party Nation must ensure that its vessels comply with Convention provisions and measures. The flag state will be notified promptly of any violations and must then order the violators to cease operating in violation and to leave the Donut Hole if appropriate. Only the flag state may try the offense and impose penalties. Each vessel must: (1) use real-time satellite position-fixing transmitters and exchange data real-time; (2) give 48-hour notice before checking into the Donut, and 24 hour advance notice for transshipment; (3) exchange catch data; (4) consent to boarding and inspections; and accept one certified non-flag state observer, or, if one is unavailable, a flag state observer, and bear the costs of meals and accomodations.

STATEMENT OF DAVID BENTON
DIRECTOR
OFFICE OF EXTERNAL AND INTERNATIONAL FISHERIES
ALASKA DEPARTMENT OF FISH AND GAME
BEFORE THE SENATE COMMITTEE
ON
COMMERCE, SCIENCE, AND TRANSPORTATION
July 21, 1994

Thank you Mr. Chairman for this opportunity to testify before you today regarding international fisheries issues in the North Pacific. For the record, I am David Benton, the Director of the Office of External and International Fisheries, Alaska Department of Fish and Game.

I would like to speak today about a number of recent developments which we believe will have a significant impact on living marine resources in the North Pacific and Bering Sea, and the ability of the United States to effectively promote the conservation and management of those resources. The events I am referring to, Mr. Chairman, are the successful conclusion of a convention for the management of pollock resources in the Central Bering Sea, the implementation of the new North Pacific Anadromous Fish Convention, the recent change in the United States' position regarding the product of the U.N. Conference on Straddling Stocks and Highly Migratory Fish Stocks, and related matters.

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Mr. Chairman, in order to fully appreciate the significance of these events, a little historical perspective may be in order.

In 1989, well over 100 Japanese salmon driftnet vessels were fishing on the high seas of the North Pacific and Bering Sea. This fleet was intercepting large numbers of North American salmon in a directed high seas salmon fishery authorized pursuant to the terms of the International North Pacific Fisheries Convention (INPFC). At the same time, nearly 1000 high seas driftnet vessels from Japan, the Republic of Korea, and Taiwan were fishing an estimated 30,000 miles of net per night in the North Pacific in the pursuit of squid, tuna, and salmon. These vessels were operating outside any international fisheries management regime, and were believed to be taking substantial numbers of North American salmon and steelhead illegally, as well as having significant impacts on marine mammals, seabirds, sea turtles, numerous fish species, and other marine life. In addition, fleets of large trawlers from Japan, Korea, Poland, and the Peoples Republic of China were fishing in the Central Bering Sea donut hole, taking roughly 1.4 million metric tons of pollock in a free-for-all, unregulated fishery. This level of harvest exceeded the pollock harvest inside the U.S. zone, and led to the collapse of the Aleutian Basin pollock stock in 1991 just 2 years later.

In each of these instances, important U.S. fish stocks were at risk. In each instance, management regimes were either non-existent or, in the case of the INPFC fishery, so ineffective, that U.S. interests could not be protected. In both the driftnet and donut hole fisheries, enforcement was totally absent resulting in numerous major illegal fishing activities taking place.

Today, just 5 years later, the situation is somewhat different, Mr. Chairman. Enormous progress has been made over the past few years. Progress that has come about in large part due to leadership from this Committee.

Today, because of the leadership of the United States, there is a global ban on the use of large scale pelagic driftnets. The unacceptable impacts of driftnets on tuna and other fish stocks has ceased, the illegal interceptions of our salmon and steelhead are gone, and the incidental takings of thousands of marine mammals and hundreds of thousands of seabirds have ended, and the waste of millions of pounds of non-target fish has stopped.

The Japanese directed high seas salmon fishery, and the INPFC which authorized it, have been terminated. The INPFC has been replaced with the North Pacific Anadromous Fish Commission (NPAFC), which prohibits fishing for salmon and other anadromous fish outside the 200 mile zones of the North Pacific. The convention establishing the NPAFC has specific conservation and management measures for anadromous stocks and ecologically related species, specific obligations and duties for cooperation and coordination of scientific research, and strong enforcement provisions. The parties to the NPAFC are Russia, Japan, Canada, and the U.S. The Convention went into effect last year.

And, just this year, another new convention was completed. The "Convention on the Conservation and Management of the Pollock Resources in the Central Bering Sea" was initialled in February of this year in Washington D.C. by the United States, Russia, Japan,

Poland, the Peoples Republic of China, and the Republic of Korea. This convention places a moratorium on fishing in the Central Bering Sea donut hole, and sets up a management regime to govern fishing once the stocks recover.

In just 5 short years, Mr. Chairman, the international fisheries management regime for the North Pacific has undergone a major restructuring. U.S. stocks are better protected. International cooperation on scientific research and enforcement has been expanded and improved. Cooperation among the major coastal states has been strengthened. How did these developments come about? They came about because of the ability and willingness of the United States to use trade policy, national and international law, and strong diplomacy around the world to persuade all of the parties concerned that these were serious matters that had to be resolved.

While these developments are certainly good news, other pending actions cause us to be concerned that the ability of the United States to address marine conservation issues in the future may be seriously compromised. There are three areas of particular concern:

Management of Straddling Stocks

The first issue has to do with the conservation and management of straddling stocks of fish. The United States has announced its intention to become a signatory to the U.N. Convention on the Law of the Sea (UNCLOS) in the near future. One of the major unresolved fisheries issues in UNCLOS is the conservation and management of straddling stocks. The State of Alaska is intimately familiar with the straddling stock issue, given that we have been involved in one of the world's pioneer efforts to craft a straddling

stocks convention to manage the Central Bering Sea donut hole fishery for Aleutian Basin pollock.

The U.N. Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks is currently attempting to address the straddling stocks issue by setting broad international policies for governing the conservation and management of such stocks. The outcome of these negotiations could have significant ramifications on the successful implementation of the Central Bering Sea convention.

Up until recently, the position of the United States has been that the outcome of the conference would be a non-binding set of guiding principles. This was agreeable to us, given the general nature of the negotiating text and the principles which would be established. Now, the U.S. position has changed, and the U.S. has agreed to this document becoming a binding agreement. This causes us concern on three counts:

1. The text contains very general language which we believe will set an unacceptable "lowest-common-denominator" as the standard for regional agreements to address straddling stocks. This low standard could hamper efforts to develop strong requirements in future regional arrangements, and could impede successful implementation of the Central Bering Sea convention in the near term. Overall, the text dealing with straddling stocks needs to be more specific regarding the standards for regional agreements and the obligations of fishing states to conserve these stocks.

2. The text reaffirms the rights of coastal states, such as the United States, to manage straddling stocks inside their respective 200 mile zones, but does not strengthen the role of the coastal states in managing such stocks outside their zone. In the case of the Bering Sea, where the donut hole is less than 10% of the area and most of the spawning occurs in U.S. waters, we believe strongly that the U.S. has the primary interest in those stocks. If the United States is going to become party to this new agreement as well as UNCLOS, then this issue must be resolved in favor of the coastal states.

3. The conference text, and presumably the new agreement, would subject the United States to compulsory binding international arbitration in order to settle disputes over the conservation and management of straddling stocks. Under the terms of the current text, such binding arbitration would apply to disputes in the Bering Sea, and could be brought about by nations which are not parties to the Central Bering Sea convention. This convention took roughly 5 years and ten rounds of negotiations to conclude. In the end we were able to negotiate an agreement between six nations which establishes internationally significant precedents for enforcement, and which contains very important conservation and management provisions which protect U.S. fish stocks and strengthens U.S. management of those stocks throughout their range. We question whether or not it is in the best interests of either the Aleutian Basin pollock stocks or the United States to then place this agreement and our interests under the authority of an unidentified international tribunal.

With the recent change in U.S. policy regarding the outcome of the UN conference, the State of Alaska believes that it is crucial that the U.S. thoroughly review the negotiating text, develop specific proposals to address these issues, and not accede to the agreement unless these issues are successfully resolved.

Implementation of NPAFC

The second area of concern is the implementation of the North Pacific Anadromous Fish Convention (NPAFC). The NPAFC was intended to take the place of the old INPFC, which included not only matters pertaining to salmon, but other species as well. It was to be an important forum for international cooperation and coordination of scientific research and fisheries enforcement. This convention, and the commission it established, was clearly intended to be a centerpiece for international cooperation regarding high seas fisheries in the North Pacific.

By the terms of the convention, directed fishing for salmon and steelhead in the convention area is prohibited. Trafficking in salmon taken in violation of the treaty is prohibited. The incidental taking of salmon in a non-salmon fishery, e.g., the high seas squid fishery, must be reduced to the maximum extent practicable, and the burden of proof is on the fishing party to show that this requirement is being met. The retention of incidentally caught salmon is also prohibited.

The convention sets new standards for high seas enforcement. It gives Parties the right to board, inspect, seize and detain any vessel of any other Party which is found to be in violation of the terms of the treaty, or any such vessel for which there are reasonable

grounds to believe is operating in violation of the treaty. Actual trial and punishment will be carried out by the flag state.

The convention also extends authority to the commission to address issues pertaining to the conservation of ecologically related species, which are broadly defined so as to include marine mammals, sea birds, and other species which are in association with salmon in the convention area. There are specific obligations for cooperation and coordination in scientific research, the collection and sharing of fisheries data, and other information necessary to attain the purposes of the convention.

However, the provisions regarding ecologically related species and scientific research remain contentious, as Canada has sought to reduce the ability of the commission to address these issues. Canada is instead pushing for these issues to be placed under the authority of the North Pacific Marine Science Organization, commonly referred to as PICES. The difficulty here is that PICES is a broad-based scientific organization more attuned to large scale, multi-disciplinary ecological research than it is to the collection, storage, and processing of basic fisheries statistics or the management of high seas fisheries and their impacts on associated species.

This conflict is weakening the mission of both the NPAFC and PICES, and U.S. policy is unclear as to its resolution. The problem could be resolved by acceding to the Canadian demands, which would diminish the role of the NPAFC and substantially modify the role of the PICES organization. We would not advocate this approach. However, if this were the decision, we believe that the treaty establishing PICES would need to be renegotiated

to include specific obligations for data collection and exchange similar to those in the NPAFC, and also to provide for PICES to engage in enforcement and management activities within the convention area.

The other approach is for the U.S. sections of both NPAFC and PICES to adopt consistent policies regarding these issues and the roles of the respective organizations. In this case, the U.S. position should be that the NPAFC should assume the role of primary responsibility for high seas management and enforcement for fisheries in the convention area, including a strong scientific research role covering a broad range of species in order to meet obligations for conservation and management in the convention area. PICES would assume the primary role for international cooperation in multi-disciplinary oceanographic and ecological research in the North Pacific. The two organizations would exchange data, and coordinate as needed on specific issues. If this is the path chosen, then it is imperative that U.S. policy be consistent and well coordinated.

U.S. Becoming Signatory to UNCLOS

The third area of concern is the pending adoption of the UNCLOS by the United States and its impact on the ability of the U.S. to effectively achieve national goals to conserve living marine resources on the high seas. Like the text from the UN straddling stocks conference, UNCLOS requires parties to submit to binding international arbitration which in most instances will be conducted by an international tribunal. The decisions of such a tribunal are binding on all parties to the dispute, and are generally not subject to appeal.

If the United States becomes a full party to UNCLOS, then these provisions shall apply. This could have serious implications for not only future conservation issues which might arise and therefore be subject to such a procedure, but also for some of the significant gains which have been made in recent years on driftnets, straddling stocks, highly migratory stocks, and other species.

For example, the driftnet moratorium could be called before such a tribunal once UNCLOS comes into force. And it is likely, in our view, that the driftnet issue would be one of the first matters brought before such a tribunal. If the U.S. were a party to UNCLOS, then we would be bound by the decision of the tribunal. In the event that the tribunal reinstated the driftnet fishery, the U.S. would be in the unfortunate position of trying to renegotiate multiple international agreements to manage these fisheries even though we know from past experience that such agreements are largely ineffective, virtually impossible to enforce, and very expensive. Most importantly, our options for bringing pressure to bear on the fishing nations would be severely constrained, thus further ensuring the likelihood that any such agreements would be weak and not adequate to protect U.S. interests or the broad range of living marine resources which would be affected of these fisheries resume.

Similarly, the effectiveness of existing regional agreements would be called into question. States which are not party to the NPAFC or the Central Bering Sea convention could challenge these agreements, and potentially undermine their implementation. For example, a non-party could announce the intention to fish in the donut hole, and be rejected by the parties to the donut hole convention. This non-party could then take the

dispute to the international tribunal. If the tribunal rules against the parties to the convention, then there will be a new entrant in the donut hole fishery, which is something we have staunchly tried to prevent. If the tribunal rules that the management or allocation scheme provided for in the convention unfairly discriminated against this new entrant, then there would be even a further erosion of the agreement.

Mr. Chairman, these problems are not insurmountable. They are, however, very serious and deserve careful attention. If the U.S. secures specific language at the UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks affirming the primacy of coastal states with regard to straddling stocks throughout their range, then the problems for the Central Bering Sea convention are manageable. If the U.S. secures a reaffirmation of the driftnet ban in the straddling stocks/highly migratory stocks agreement, as well as in other international agreements including any documents concluded in relation to the ratification of UNCLOS, then the driftnet issue is manageable. However, if the United States does not secure such affirmations, then many of the gains we have made in the last 5 years or so will be severely undermined.

Mr. Chairman, thank you for your kind consideration in allowing me to present this testimony to you today. I will be glad to answer any questions you or the other members of the Committee may have.

**DRAFT
MINUTES
Law of the Sea Committee
September 28, 1994
Seattle, WA**

The Council's Law of the Sea Committee met at 5:15 pm on September 28, 1994 in Seattle. Attending were Dave Hanson (Chair), Dave Benton, Dave Benson, Harold Sparck, Capt. Anderson, and Clarence Pautzke. The Committee's concerns and recommendations are presented below.

Concerns

1. The U.S. position in the U.N. Law of the Sea negotiations to accept binding international arbitration in dispute settlement could cause problems with management of Central Bering Sea pollock stocks. This dispute resolution could be left under the authority of an unidentified international tribunal. A non-party to current regional agreement could trigger this dispute settlement process and possibly obtain a different management arrangement than now exists.
2. The settlement process described above also applies to the current driftnet moratorium. The moratorium is now voluntary. The desires of Italy, Spain or France to commence driftnet fisheries may set a precedent for some nation with interests in the Pacific to pursue a change in the driftnet moratorium that now protects salmon stocks.
3. Other fisheries could emerge on the high seas, e.g., pair trawling for squid, which could take salmon. This would have to be settled by an international tribunal and the outcome is much less likely to be in our favor than if regional pressures and mechanisms were used.
4. Fisheries could arise on species of ecosystem concern.
5. There is no restraint on new fisheries. In effect, a fishery can continue until it is proven adverse. This is different and not as desirable as prohibiting a fishery until it can be proven to not be adverse.

Future Steps

1. All regional Councils need to start tracking these issues and the ongoing straddling stocks conference. The text as it pertains to both straddling stocks and highly migratory species needs to be examined. Pollock, salmon, tuna, billfish, and other pelagics all are affected by this conference.
2. The global driftnet moratorium has to be made binding?
3. An issues paper needs to be drafted and distributed to all Councils by the time the Executive Directors meet in November. The Marine Fisheries Commissions, also need to be apprised of the issues.

4. The issues paper and any consensus multi-council position that is established need to be transmitted to the U.S. State Department and to interested industry sectors this fall.
5. Efforts need to be made to request the Senate to carefully review these concerns when providing advice and consent on UNCLOS and any agreements derived from the straddling stocks conference.
6. The LOS Committee will confer again in mid-October on development of the issues paper. The paper should be ready for distribution at the Pacific Council meeting on October 24.