

UIUITEO STATES DEPARTMENT OF COMMERCE National Oceanic and Atmospheric Administration National Marine Fisheries Service Washington, D.C. 20235

DEC 28 1976

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TO:

All Regional Directors FNE, FNW, FSE, FSW, FAK

FROM:

Robert W. Schoning, Director

National Marine Fisheries Service

SUBJECT: Foreign Ownership of U.S. Fishing Vessels.

A copy of Donald R. Johnson's November 5, 1976, memorandum on this subject is attached.

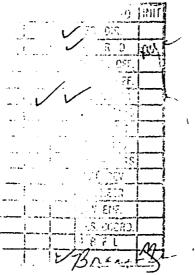
The amendment of Maritime Administration regulations (46 CFR 221.4c) to which Mr. Johnson refers occurred on January 1, 1975.

Before this amendment, a U.S. corporation with more than 49 percent foreign stockholders had to get MARAD approval before it could purchase a used U.S. vessel or contract for the construction of a new one.

Fisheries impact was a decision criterion in all applications for such approval since MARAD sought NMFS recommendations on every application.

The amendment gave blanket approval for U.S. corporations—regardless of the degree of foreign stockholders (even if foreigners own 100 percent of the stock)—to contract for the construction of new U.S. fishing vessels. Coast Guard regulations governing the documentation of newly constructed U.S. vessels present no further bar since they are silent about the citizenship of corporate stockholders.

Thus, after the amendment, wholly foreign-owned U.S. corporations may, without restriction, contract for the construction of new U.S. fishing vessels, take delivery of them, document



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them as U.S. fishing vessels, and operate them within the U.S. 200-mile jurisdiction with all the rights and privileges (as well as responsibilities) of U.S. citizens. Since the amendment gave blanket approval only for contracts for the construction of new vessels, MARAD approval is still required, however, for the purchase of used vessels by U.S. corporations with more than 49 percent foreign stockholders.

Concern has been expressed that this situation may, among other things, provide a possible means for foreign fishing interests to monopolize both foreign and domestic quotas for some species and make difficult, or impossible, evolution of a citizen-owned fishing capability for some species within our 200-mile jurisdiction.

On the other side, however, the Administration's general policy is against barriers to foreign investment in the United States. Strong arguments would be required to exclude the fisheries situation from this general policy. Those who favor the Administration's general policy have argued that foreign interests will not rush to establish wholly-owned U.S. fishing corporations because their resulting right to fish within our 200-mile zone is not a strong enough incentive to justify incurring the substantial expense associated with constructing new U.S. fishing vessels. Another argument is that new fishing vessels built in the United States for wholly-owned U.S. corporations will be U.S. fishing vessels regardless of who effectively owns and controls them.

We believe this situation is potentially significant enough (it seems to be building toward some kind of Congressional action) to request review and advice from each of you before we attempt to formulate a recommended agency policy. The situation should be discussed with the Regional Fishery Management Councils in order to obtain their views.

We will appreciate your responses as soon as possible. Please specifically justify your positions.

Attachment