

The Foreign Permit Review Committee met from 12:00 to 1:30 p.m. on Thursday, April 27, 1977 in the Council office with the following members in attendance:

- Keith Specking (Chairman)
- Ron Naab
- Ralph Giffin
- Harold Lokken
- Hank Eaton
- Bob McVey

Also present were Oral Burch, Nick Szabo, and Chuck Jensen.

A review of six Korean Marine Industrial Development Corp. (KMIDC) applications was made and the Committee recommended as follows:

That the Secretary not approve the permit for the six KMIDC support vessels until the North Pacific Council submits its recommendation following their May meeting. The deferral is needed to resolve several legal issues surrounding the grant of these permits.

Legal testimony was presented by Kim White that indicated approval could not be given under existing regulations, 50 CFR 611.10(b).

Approval was given of the Anyo Maru #11 as replacement for Shinsei Maru #2.

Approved Agenda Item #22, but noted catches for shrimp which is illegal act by law.

Recommended approval of permits No. 3, 5, 6, Chil Bo San Ho.

Approval was given for the Hoyo Maru for snail pot fishing.

PRIORITY

CZCANA170
OTTUZYUA RUEHCAA5739 1131453-UUUU--RUWMNAA.
ZNR UUUUU ZZH
O 231353Z APR 77
FM SECSTATE WASHDC
TO FAA ALASKAN REGION HQ IMMEDIATE
BT
UNCLAS STATE 095739

APR 27 11 59 AM '77

E.O. 11652:N/A

TAGS: EFIS KS JA XP

SUBJECT: FISHING PERMIT APPLICATIONS

1. FAA COMMUNICATIONS CENTER ANCHORAGE IS REQUESTED TO PASS THIS MESSAGE TO MR. CARL PRICE OF STATE DEPARTMENT ASAP AT SHEFFIELD HOUSE ANCHORAGE, TELEPHONE 907-279-7661, ROOM 1410.

2. SUMMARY OF KOREAN APPLICATIONS FOR NORPAC COUNCIL:
A. FOLLOWING VESSELS HAVE APPLIED FOR PERMITS TO PROCESS FISH IN GULF OF ALASKA DURING REMAINDER OF 1977. THESE FISH WOULD BE PURCHASED FROM U.S. FISHERMEN AT SEA. ALL VESSELS OWNED OR CHARTERED BY KMIDC AND REPRESENTED BY WILLIAM FOSTER, ATTORNEY, OF PATTON, BOGGS AND BLOW, AND BY ROBERT ELY, ANCHORAGE ATTORNEY.

NAME/LENGTH/CALL SIGN/GROSS TONNAGE/REGISTRATION NO.
CAECHOK HO/193M/6MT0/23800/BF36340
SOO GONG 51/102M/6NEZ/3510/BF38235
DOOK NEUNG/130M/-----/3600/BF36130

B. FOLLOWING VESSELS HAVE APPLIED FOR PERMITS AS TRANSPORT VESSELS TO OPERATE IN ALL ALASKA FISHERIES AREAS WITH OTHER KOREAN FISHING VESSELS. ALL OWNED BY KMIDC AND REPRESENTED BY ATTORNEYS NOTED IN 2.A ABOVE.

NAME/LENGTH/CALL SIGN/GROSS TONNAGE/REGISTRATION NO.
TAE YANG 11/147M/6LBH/7073/BF21875
TAE YANG 12/78M/6LBB/1332/BF21575
TAE YANG 13/60;. /6KYB/957/BF21559

C. FOLLOWING VESSEL HAS APPLIED FOR ALASKA TRAWL FISHERIES AS A REPLACEMENT FOR SOOGONG 51. OWNED BY KMIDC. REPRESENTED BY WILLIAM FOSTER. (SOO GONG 51, IF APPROVED FOR PERMIT REQUESTED IN 2.A., ABOVE, WOULD DROP OUT OF ALASKA TRAWL FISHERIES PREVIOUSLY AUTHORIZED.
JINAM 305/60M/6MLK/1015/BF 35887.

3. FOLLOWING JAPANESE VESSEL HAS APPLIED FOR PERMIT FOR SNAIL POT FISHERY IN ADDITION TO OTHER JAPANESE VESSELS PREVIOUSLY AUTHORIZED. HOYO MARU 65/47M/JPSJ/350/MG1-755.

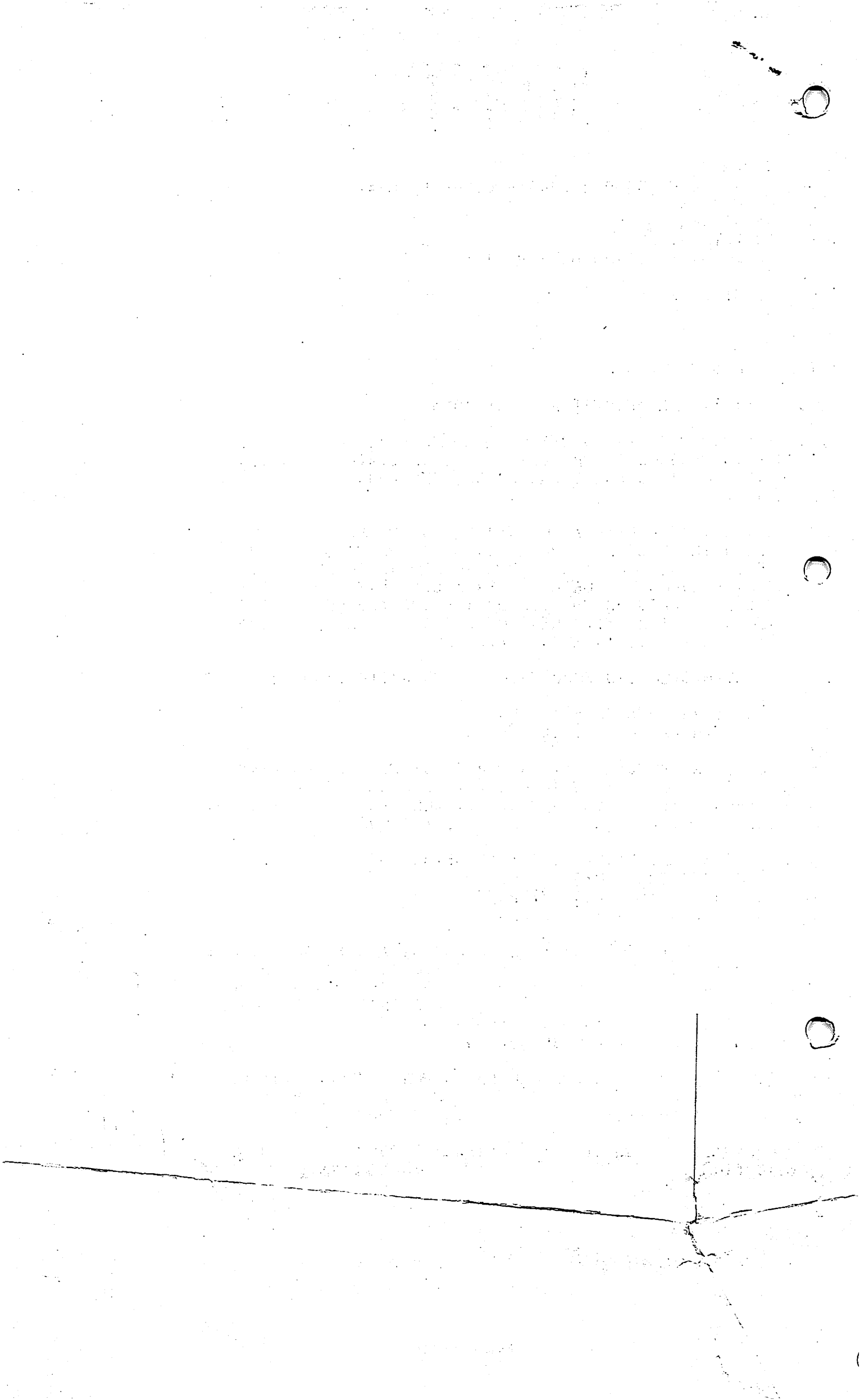
4. COUNCIL IS REQUESTED TO REVIEW AND COMMENT ON THESE APPLICATIONS.

VANCE

BT
2739

} approval

} approval



STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Appendix P.

JAY S. HAMILTON, GOVERNOR

333 K STREET - SUITE 105
ANCHORAGE 99501

April 26, 1977

Mr. Charles H. Meacham
Director
International Fisheries &
External Affairs
Office of the Governor
Pouch A
Juneau, Alaska 99811

Dear Mr. Meacham:

This is in response to your request for the views of this department respecting several questions relating to the Fishery Conservation and Management Act of 1976.

I

You have indicated that several arrangements between Alaskan and foreign business entities are under consideration. These ventures would likely involve the harvesting of fisheries resources within the fishery conservation zone adjacent to Alaska by US fishing vessels with subsequent delivery to a foreign vessel within the zone as part of a commercial transaction. Fisheries products would thus enter foreign markets absent any contact with processing or distributing facilities located on US soil. Foreign vessels entering the zone might be used strictly for transportation of harvested fish to foreign ports; on the other hand, they might also perform

Mr. Charles H. Meacham
April 26, 1977
-2-

some processing functions as well.

The questions you have presented for review are as follows:

(1) Would a foreign vessel used for transportation and/or processing as described above require a permit in order to accept delivery of fish within the fishery conservation zone?

(2) Would fisheries resources accepted by a foreign vessel within the fishery conservation zone for transportation and/or processing as described above be deducted from the allocation assigned to the nation which was parent to the vessel?

(3) Assuming it is relevant in order to dispose of (1) and (2), what activities constitute "transportation" and "processing" under the Fishery Conservation and Management Act of 1976 (hereafter FCMA)?

In responding to questions (1) and (2), it will be assumed that the foreign vessel is engaged in "transportation" or "processing" within the meaning of those terms as employed in the FCMA.

(1) Permits

The necessity of obtaining a permit hinges on §204(a), which provides that no foreign fishing vessel may engage in "fishing"

Mr. Charles H. Meacham

April 26, 1977

-3-

valid permit. The definition of "fishing" is found in §3(10):

- (10) The term fishing means-
- (A) the catching, taking, or harvesting of fish;
 - (B) the attempted catching, taking, or harvesting of fish;
 - (C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or
 - (D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C). [Emphasis added]

Standing alone, it might be reasonable to argue that the underscored language would include transportation and processing as support or preparatory activities. However, the immediately succeeding definition demonstrates that this was not the intent of the drafters:

- (11) The term "fishing vessel" means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for-
- (A) fishing; or
 - (B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing. [Emphasis added]

This definition employs the term of art "fishing", but separates it with the conjunction "or" from activities constituting "transportation" and "processing". Consequently, "transportation" and "processing" are not "fishing" within the meaning of the FCMA;

Mr. Charles H. Meacham
April 26, 1977
-4-

the zone unless the vessel is also engaged in activities which amount to "fishing" as defined in §3(10).

Our recollection of the deliberations on the FCMA reinforces this conclusion. The relatively wide scope of the definition of fishing (expressly including attempts, preparatory and support activities) was to insure that illegal fishing (the taking of the resource) could be successfully proscribed and prosecuted even if the offending vessel were not actually caught with fish (hence attempts and preparatory activities) or an accomplice was involved (i.e., support activities). Unequivocal regulation of actions amounting only to processing or transportation would not further this objective.

(2) Allocations

The definition of "fishing" in §3(10) also provides the answer to your question (2). If fisheries resources are harvested by US fishing vessels and subsequently delivered to a foreign vessel within the fishery conservation zone for transportation and/or processing, that volume of fish would not be deducted from the allocation of the country which was home to the vessel. §201(d-e) provide the mechanism for determining the total allowable foreign effort and the allocation of that effort among particular countries. In both cases, the operative phrase is "foreign fishing", which is defined in §3(12) as "fishing by a vessel other than a vessel

Mr. Charles H. Meacham
April 26, 1977
-5-

used in the FCMA does not include transportation and processing. Consequently, calculations of deductions from allocations are to be based on activities amounting to "fishing" only. Otherwise, in a situation where a foreign vessel transported or processed fish taken by US vessels, it would be possible to deduct the same load of fish from both the US and the foreign allocation because both the US and foreign vessels would have been legally "fishing" for that load.

This interpretation is consistent with several of the express policies and purposes of the FCMA. Given the recognized contemporary conditions regarding international trade and commercial relations involving fisheries resources, the Congress was certainly aware that promotion of domestic commercial fishing [cf. §2(b)(3)] and development of underutilized fisheries resources [cf. §2(b)(6)] would necessarily involve the likelihood of arrangements between US and foreign firms to develop necessary markets for some species. If fish harvested by US vessels and sold to foreign vessels for marketing abroad were deducted from a foreign allocation, there would be no reason for foreign enterprises to utilize US vessels in place of their own.

(3) Definitions of Transportation and Processing

The foregoing answers to questions (1) and (2) presume that there

Mr. Charles H. Meacham

April 26, 1977

-6-

would be no disagreement as to what activities constitute "processing" and "transportation". It is conceivable that the meaning of these terms is sufficiently well understood within the fishing community to necessitate no clarification. We suspect, however, that some phases of transportation or processing would be considered by a number of persons as amounting to "support" activities within the meaning of the definition of "fishing" and that no clear dividing line exists between fishing support activities on the one hand and transportation and/or processing on the other. Our examination of the legislative history, although not exhaustive, reveals nothing which would resolve the question. If there is, in fact, a definitional problem of this nature, the FCMA offers two potential remedies:

a. It is arguable that §305(g) would authorize the Secretary to promulgate regulations making specific definitions which are ambiguous or insufficiently explicit to allow implementation of the Act provided the regulations are fully consistent with the intent and language of the Act. If this avenue were pursued, regulations further defining "fishing" should recognize that the definition of "fishing" was intended as an enforcement tool and not as an instrument to permit regulation of fish processing and commercial shipping.

Mr. Charles H. Meacham

April 26, 1977

-7-

legitimately incorporate limitations or specifications regarding "fishing vessels" for enforcement or other purposes. As mentioned, "fishing vessels" include those used for transportation and/or processing. Under this authority, a Council or the Secretary (depending on who initiated the plan) could formulate an appropriate dividing line. This approach would be more flexible than that in (a) since different systems could be developed to respond to conditions and enforcement problems in particular fisheries.

II

Second, you have pointed out that management plans may, after identifying optimum yield and total allowable catch, assess US harvesting capacity in numerical terms and thereafter assign any surplus to foreign fishing effort. Your question is whether US harvesting capacity, expressed in a management plan as a volume of fish, operates as a ceiling on US effort in that fishery during the time that management plan is in effect.

A. Intent of the Act

One of the foremost purposes of the Act, repeated often in its provisions, is to insure a continuous supply of valuable fisheries resources and to prevent overfishing. §2(a)(2), §2(a)(3), §2(a)(4), §2(a)(5), §2(a)(6), §2(b)(4), §3(2), §3(18), §301(a).

Mr. Charles H. Hoacham

April 26, 1977

-8-

In most instances, unless the plan states otherwise, it would probably be assumed that any increase in harvesting over the combined US/foreign ceilings would jeopardize the applicable resource. If economic or social factors were used to establish the ceiling, fishing beyond that level would be assumed to contravene the objectives of the management plan to the same extent as if biological considerations were controlling. In any event, the terms of the management plan itself would indicate the purpose of any volume figure made applicable to US fishing effort.

The FCMA does not specifically address the question of what is to happen if the Council or the Secretary errs in assessing US harvesting capacity, as in the case where an estimate has been implemented in a management plan, that level has been taken by US vessels, and they are standing by prepared to take more. [§303(a)(4) deals expressly with the assessment.] It is clear, however, that the assessment is supposed to give US fishermen the benefit of the doubt when the figures are calculated:

The conference committee intends that, in determining whether U.S. fishermen "will not" harvest an optimum yield, the Councils are to give consideration to both the desire and capacity of U.S. fishermen to harvest such yield. [Conf. Rep. 94-711, Section-By-Section Discussion under §201.]

In addition, §301(h)(4) obligates the Councils to review

Mr. Charles H. Meacham

April 26, 1977

-9-

"on a continuing basis, and revise as appropriate" the assessment. The Secretary's emergency powers under §305(e) include amendment of existing management plans and regulations (although such amendments would have to meet the national standards). In summary, unless someone could successfully challenge an assessment implemented in a management plan as being inconsistent with the provisions of the Act, the terms of the management plan with respect to any ceiling or "allocation" to US fishermen would control. Avenues are available, however, for amendment of the management plans.

B. Mechanics

In terms of the actual impact of a ceiling or allocation respecting US fishing effort on the fishermen themselves, the implementing regulations rather than the management plans are what matter. §307 of the FCMA prohibits any person from violating any regulation or from possessing fish in violation of any regulation; no such prohibition is expressed respecting violations of management plans. Therefore, while the implementing regulations presumably reflect the terms of the management plans, the regulations would specify when seasons or areas close or US fishing effort is otherwise legally terminated.

Regulations, of course, are also subject to amendment. Such amendments may be accomplished by emergency action in the manner

Mr. Charles H. Meacham
April 26, 1977
-10-

described in §305(e).

Should you have any further questions regarding the matters discussed in this letter, please contact the undersigned.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By: 
Jeff Haynes
Assistant Attorney General

Appendix Q

North Pacific Fishery

Management Council

Elmer Rasmuson, Chairman
Jim H. Branson, Executive Director

Suite 32, 333 West 4th Avenue
Post Office Mall Building



Mailing Address: P.O. Box 3136DT
Anchorage, Alaska 99510

Telephone: (907) 274-4563
FTS 265-5435

May 2, 1977

The Honorable Juanita Kreps
Secretary of Commerce
United States Department of Commerce
Commerce Building
Washington, D. C. 20230

Dear Madam Secretary:

At its sixth plenary session in Anchorage, on April 28, the North Pacific Council reviewed 13 permit applications from foreign ships to fish within the Fishery Conservation Zone off Alaska. The Council recommended that seven applications be recommended for approval. These were for the:

- #3 Chil Bo San Ho (KS-77-0074)
- #5 Chil Bo San Ho (KS-77-0075)
- #6 Chil Bo San Ho (KS-77-0076)
- Anyo Maru #11 (JA-77-20541-B)
- Shinsei Maru #2 (JA-77-20319-B)
- # ~~Moyo~~ Maru
- Jinam 305 (to replace the Soo Gong 51)

The Council recommended that the following permit applications not be approved:

- Gae Chuk Ho
- Soo Gong 31
- Bookneung
- Tae Yang #11
- Tae Yang #12
- Tae Yang #15

The six applications recommended for disapproval are those South Korean vessels belonging to the Korea Marine Industrial Development Corporation which were to have been used in the Gulf of Alaska to buy raw fish from American fishing vessels and process it aboard. The Council, both in its April 27 and 28 meeting and at the fifth plenary session in March, has heard a great deal of testimony from both sides of this controversial question. The Council members both individually and as a group have studied the problem at length and after due deliberation, by a vote of six to two recommend that you not issue these permits.

The Honorable Juanita Kreps

Page 2

May 2, 1977

Three of the voting members were absent when the vote was taken. Two of the non-voting members entered the debate and expressed concurrence with the majority conclusion.

Because of the important policy considerations involved, I will in this letter attempt to summarize the issues raised in the debate on this motion and the comments by the Council members.

Our procedure upon receipt of permit applications is first to refer the applications to an Advisory Panel subcommittee. The deliberations of the subcommittee are open to the public and various individuals participated in the discussion. The subcommittee had the benefit of advice from Mr. Kim White, legal counsel recently assigned by NOAA to Alaska. Legal opinions from private sources bearing on the subject were also considered.

The Chairman of this subcommittee reported to the Council that the majority of the review committee was of the opinion that the applications for vessels belonging to the K.M.I.D. Corporation not be approved at this time. However, the Chairman pointed out that there was considerable division of opinion on this recommendation and several of the subcommittee members were influenced by reservations expressed by Mr. White as to whether the regulations contemplated the licensing of a processing vessel which was not in itself part of a directed foreign fishing effort. This matter, Mr. White wished to research further and indeed the Council had previously requested a review of other legal questions pertaining to foreign fishing.

While the Council members observed the legal question, the debate indicated a more fundamental concern with the consequences of permitting off-loading fishery stocks from domestic catcher boats to unregulated foreign processors in Council waters. This is a matter of principle and the decision not to approve the applications at this time was made primarily to avoid approving a new policy of fishery operation without adequate perception of the consequences and conviction of its general desirability.

It is agreed by all the Council members that it is highly desirable to encourage the entrance of American fishermen into the catching of groundfish and particularly Alaska pollock. It is also not disputed that, at this time, there does not exist

The Honorable Juanita Kreps

Page 3

May 2, 1977

the domestic processing capacity to handle the quantity of pollock which the Korean venture has declared as its objective. Nevertheless, and even though testimony was presented that Alaskan fishermen are very interested in this Korean offer, no domestic fishermen have yet signed up to fish for the venture. Indeed, a resolution was presented from the United Fishermen's Marketing Association, Inc. (headquartered in Kodiak, Alaska) that in part stated that "Unless American processors are afforded the same priority treatment under the Act as American fishermen enjoy, ventures like that proposed by K.M.I.D.C/Devenny could retard the development of American processing and marketing of under-utilized species and potentially destroy present processing of fully utilized species such as shrimp, crab, salmon, herring." The full text of this resolution as well as a resolution of the Board of Directors of the National Fisheries Institute are attached.

The following summarizes the Council's concern:

1. Any short-term benefits to American fisherman to market groundfish by selling directly to floating foreign processors could have a long-term inhibiting effect on the development of U.S. processing capability. The adverse impact on plans of domestic processors was testified before the Council.
2. A serious conservation problem is presented. The total allowable catch for Gulf of Alaska pollock in 1977 was set at 150,000 metric tons, all of which (with the exception of 1,000 metric tons) was allocated to foreign nations. The Korean venture projects a harvest of an additional 60,000 to 80,000 metric tons above the biologically set maximum.
3. A further conservation and management problem is that the fishing would be on mixed stocks. While it is alleged that the venture is directed towards pollock, the permit applications did not specify the species. It is apparent that there would be a substantial bycatch of other species with unknown impact and certainly adverse effect on halibut stocks which legally are required to be returned to the sea.
4. There is no current regulatory method for controlling an American trawl fishery by time and area closures or gear restrictions. It is anticipated that in the permanent management plan there will be introduced these regulatory measures, including division of the Gulf of Alaska into the same number of groundfish areas as used by INPFC.

The Honorable Juanita Kreps
Page 4
May 2, 1977

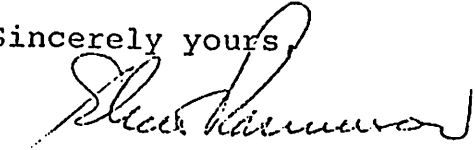
5. An approval of this venture would likely open the door to other nations, with potentially chaotic conditions and we are currently unprepared to manage them.

6. If this venture is officially approved, it will encourage similar arrangements in various other species, with indeterminate consequences in conservation, management, and social and economic impact. The desirability of some kind of primary domestic processing rule will certainly be discussed by the Council.

7. Many millions of dollars have been invested in domestic processing plants by both U. S. and foreign companies and more is contemplated. It is essential that the rules be fixed and not changed in midstream.

From the above, it is apparent that the Council did not want to approve the applications, which appear simple and perhaps isolated on the surface but are fraught with substantive and unreckoned consequences for the future. The Council believes that a policy should be developed to cover these matters and, upon formulation, will forward its recommendations to you.

Sincerely yours,



Elmer Rasmuson
Chairman
North Pacific Fishery
Management Council

North Pacific Fishery

Erner Rasmuson, Chairman
Jim H. Branson, Executive Director

Suite 32, 333 West 4th Avenue
Post Office Mall Building



Management Council

Appendix R.
Mailing Address: P.O. Box 3136DT
Anchorage, Alaska 99510

Telephone: (907) 274-4563
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Extended Jurisdiction Update

A report by the USCG & NMFS covered the following topics.

1. Foreign fishing vessels checked in thru 22 April 1977
2. Boardings/Enforcement incidents
3. Cutter patrol days & aircraft patrol efforts
4. Available aircraft hours
5. Summary of foreign fishings thru April 22
6. Summary of permits
7. Foreign fishing checklist

FFV CHECKED IN
 FIGURES THROUGH 22 APRIL 1977

	<u>JA</u>	<u>UR</u>	<u>KS</u>	<u>All</u>
# of Fish Units On Grounds	76	42	1	119
# Boarded at Least Once	32	23	1	56
% Boarded at Least Once	42%	55%	100%	47%
# Sighted at Least Once	50	38	1	89
% Sighted at Least Once	66%	90%	100%	75%

BOARDINGS/ENFORCEMENT INCIDENTS

	<u>JA</u>	<u>KS</u>	<u>UR</u>	<u>Total</u>
March	26/1	1/1	21/4	48/6
April (through 25th)	28/6	1/0	9/2	38/8

Total Boardings to Date: 86

Total Violations to Date: 14 (6 reports of violations,
8 citations)

% Boardings Resulting in Violations: 16%

Cutter Patrol Days

March	100
April (through 25th)	67
Total	167

Aircraft Patrol Effort

	<u>Hours</u>	<u>Miles</u>	<u>FFV ID's</u>
March	155.3	24,650	152
April (through 25th)	122.1	18,155	109
Total	277.4	42,805	261

Date of Listing	# of Fish Units	# of F/V	F/Units in prior 7 days	% Sighted in prior 7 days	F/Units Boarded in prior 7 days	% Boarded in prior 7 days
3/11	65	77	42	65	13	20
3/18	66	78	23	35	4	6
3/25	67	79	35	52	18	27
3/31	63	75	25	40	5	8
4/6	63	75	26	41	1	2
4/15	60	72	28	47	11	18
4/22	62	74	28	45	11	18

1. After four weeks, POD for a given vessel being sighted climbs to 85%

100%

GOAL

5300

AVAILABLE A/C HOURS IN
RELATION TO ELT (FISHERIES) NEEDS

80%

3550

60%

2870

40%

2200

20%

0%

ADD ONE MORE 1000 ELT HR C130
ADD ONE 1000 ELT C130 + One 400 HR C130
present

- 67%
Present
Inventory
Plus 2 C-130
(675 ELT HRS/C-130)
- 54%
Present Inventory
Plus 1 C-130
(675 ELT HRS/C-130)
- 42%
Present A/C
Inventory

0

SUMMARY OF FOREIGN FISHING OFF ALASKA
April 1 - April 22, 1977

A total of 107 individual foreign fishing and associated support ships (28 Soviet, 78 Japanese and 1 South Korean) engaged in fisheries off Alaska during April. That was a decrease of 11 from the previous month and a decrease of 224 from April 1976.

SOVIET ACTIVITIES

The 28 individual Soviet vessels included 22 stern trawlers, 4 refrigerated transports, 1 tanker, and 1 rescue vessel. This is a decrease of 18 from the previous month and a decrease of 119 from April 1976.

Groundfish Trawl Fishery

The Soviet groundfish trawl fishery consisted of two vessels fishing at the end of the month in the western Aleutians.

Pollock and Herring Fishery

The Soviet effort for pollock continued to be 22 stern trawlers in the northern Bering Sea along the Continental Shelf edge, with an incidental catch of herring.

JAPANESE ACTIVITIES

The 78 individual Japanese vessels that engaged in fisheries off Alaska included 2 crab factory vessels with 12 catcher vessels, 27 stern trawlers, 13 medium trawlers, 14 longliners, 7 refrigerated transports, 2 cargo vessels, and 1 tanker. This represents an increase of 7 from the previous month and a decrease of 179 from April 1976.

Crab Fishery

Two crab factory ships and 12 catcher vessels began fishing during the second week of March on the Continental Shelf north of Unimak Island (area A). Both of the factory fleets shifted their effort to the area just west of the Pribilof Islands at mid-April (Area B) without fulfilling the area A quota. Three refrigerated transport ships and one tanker vessel supported the fishery during the month.

Groundfish Trawl Fishery

The Japanese trawl fisheries along the Continental Shelf continued from March with independent stern trawlers operating in the Gulf of Alaska and Bering Sea.

The 8 individual stern trawlers that operated in the Gulf of Alaska fished in three main areas: off southeast Alaska, the Yakutat fishing grounds, and in the Shumagin area. They were supported by one cargo and one refrigerated vessel.

The 27 stern trawlers that fished in the Bering Sea for pollock and incidental herring were supported by three refrigerated transports and one cargo vessel. Five stern trawlers fished in the western and central Aleutians.

Sablefish Fishery

Fourteen longline vessels fished for sablefish in the Gulf of Alaska, the Aleutian Islands, and the Bering Sea. Three vessels fished in the Aleutians, two vessels fished in the central Bering Sea near the Pribilof Islands. Nine individual longline vessels operated in the Gulf of Alaska in four areas: southeast Alaska, Yakutat grounds, Albatross Bank of Kodiak Island, and in the Shumagin areas. Of the 197 total days of longliner effort 73 percent or 144 days of this was in the Gulf of Alaska, 49 percent of the total effort was in the southeastern Gulf of Alaska.

SOUTH KOREAN ACTIVITIES

One longline vessel that began operating the last week of March continued to fish in the Gulf of Alaska from the Shumagin Islands to Kodiak Island.

BOARDINGS - 1977 (Jan. 1 - Apr. 24)

	<u>Bering Sea</u>	<u>Aleutians</u>	<u>Gulf of Alaska</u>	<u>Total</u>
Japanese	29	7	44	80
USSR	18	12	9	39
ROK	0	0	2	2
Total	<u>47</u>	<u>19</u>	<u>55</u>	<u>121 (GT)</u>

(Mar. 1 - Apr. 24)

Japanese	25	5	20	50
USSR	11	10	8	29
ROK	0	0	2	2
Total	<u>36</u>	<u>15</u>	<u>30</u>	<u>81</u>

ENFORCEMENT ACTIONS

	<u>Violations</u>	<u>Citations</u>	<u>Total</u>
Japanese	3	5	8
USSR	3	3	6
ROK	0	1	1
Total	<u>6</u>	<u>9</u>	<u>15 (GT)</u>

FOREIGN FISHING PERMITS--1977

MITTED AREA

GULF				BERING - ALEUT. & GULF				
KS	UR	PL	TW	JA	KS	UR	PL	TW
8	22	4	---	40	1	19	---	---
---	---	---	---	---	---	1	---	---
---	5	---	---	---	---	5	---	---
---	---	---	---	---	---	---	---	---
---	---	2	---	58	---	41	---	---
---	---	---	---	5	---	16	---	---
---	---	---	---	---	---	6	---	---
---	---	---	---	---	---	---	---	---
---	---	---	---	22	7	---	---	---
---	---	---	---	---	---	---	---	---
8	27	14	---	125	8	87	---	---

TOTAL

JA	KS	UR	PL	TW
202	21	96	4	4
95	---	1	---	---
---	---	41	---	---
8	---	4	---	---
60	---	41	2	---
5	---	16	---	---
---	---	5	---	---
---	---	1	---	---
---	---	3	---	---
22	7	---	---	---
29	---	---	---	---
421	28	208	6	4

and pair trawlers

Vessels Off Alaska

1976 1975 1974

31/ 380^{1/} 435^{1/}

1 459 448

3 21 43

0 3 1

4 2 1

1 865 928

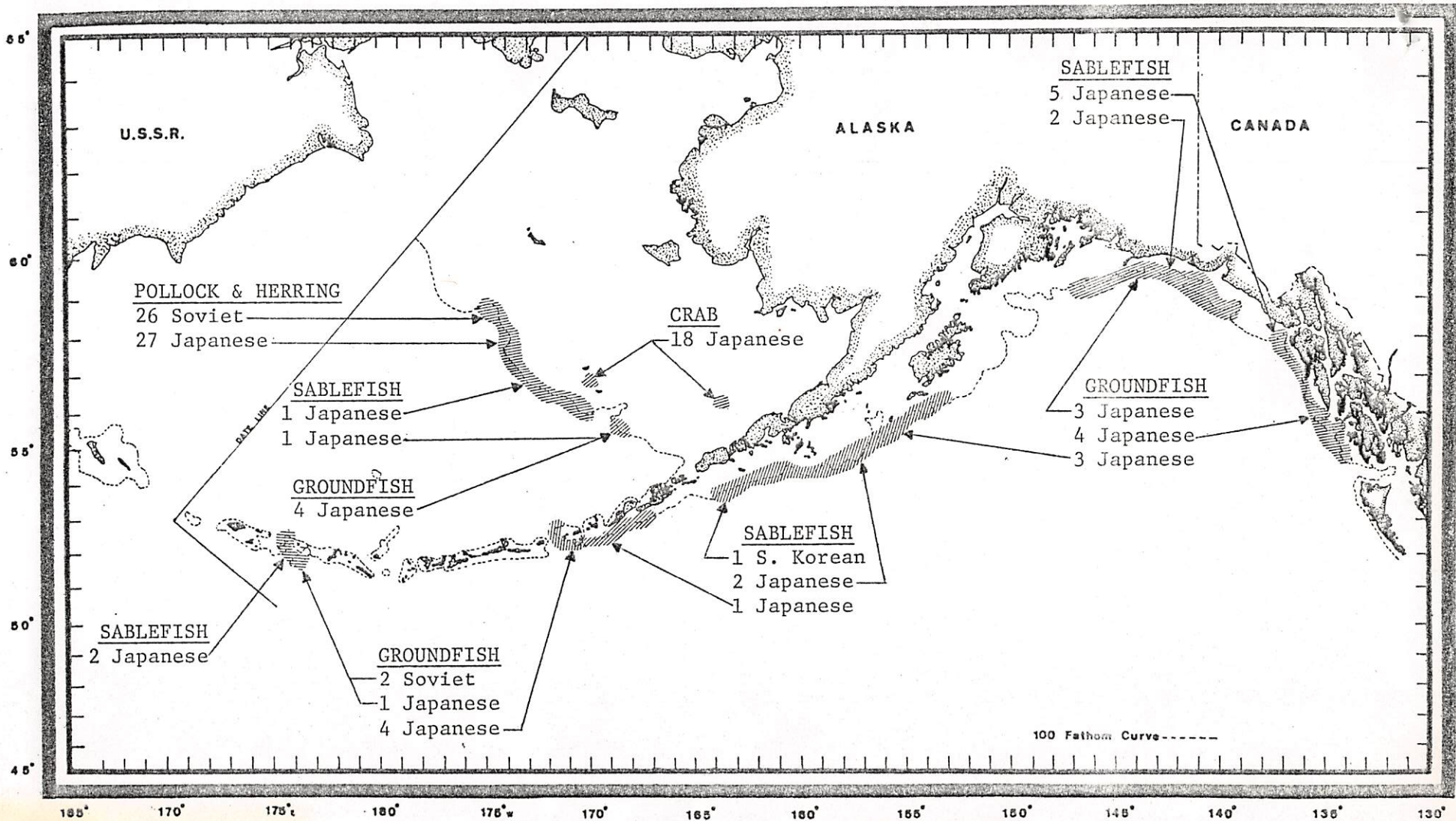
Prepared by
National Marine Fisheries Service
Law Enforcement Branch
April 21, 1977

VESSEL TYPE	PERMITTED AREA											
	BERING - ALEUT.					GULF					BERING	
	JA	KS	UR	PL	TW	JA	KS	UR	PL	TW	JA	K
Large Stern Trawl	161	12	55	--	4	1	8	22	4	--	40	
Med. Stern Trawl	95	--	--	--	--	--	--	--	--	--	--	
Side Trawl	--	--	31	--	--	--	--	5	--	--	--	
Factory	8	--	4	--	--	--	--	--	--	--	--	
Cargo/Transport	2	--	--	--	--	--	--	--	2	--	58	
Tanker	--	--	--	--	--	--	--	--	--	--	5	
Passenger	--	--	--	--	--	--	--	--	--	--	--	
Tug	--	--	1	--	--	--	--	--	--	--	--	
Rescue	--	--	3	--	--	--	--	--	--	--	--	
Longliner	--	--	--	--	--	--	--	--	--	--	22	
Crab/Snail Pot	29	--	--	--	--	--	--	--	--	--	--	
TOTALS	295	12	94	--	4	1	8	27	14	--	125	

*Includes Danish seiners and pair trawlers

Country	No. of Vessel Permits		No. of Vessels Off Alaska		
	Requested	Approved	1976	1975	1974
Japan	458 ^{1/}	421 ^{1/}	533 ^{1/}	380 ^{1/}	435 ^{1/}
USSR	301	208	471	459	448
Korea	70	28	53	21	43
Poland	14	6	0	3	1
Taiwan	29	4	24	2	1
Total	872	667	1081	865	928

^{1/} Does not include salmon fleets



Foreign fishing off Alaska, April 1-22, 1977 by country, number of vessels, principle fishing grounds and species fished.

Keiko Maru

<u>Date (Tokyo time)</u>	<u>Position</u>		<u>Daily catch</u>	<u>Accum. catch</u>
	<u>N</u>	<u>W</u>		
April 13	56-28	170-16	0	0
April 14	56-40	170-30	14.734	14.734
April 15	56-29	170-21	13.385	28.119
April 16	56-15	169-53	25.576	53.695
April 17	56-42	170-28	45.164	98.859
April 18	56-39	170-28	30.740	129.599
April 19	56-12	169-57	56.724	187.32
April 20	56-36	170-34	30.047	217.37
April 21	56-32	170-30	29.707	247.08
April 22	56-13	169-53	70.905	317.980
April 23	56-32	170-26	25.992	343.970
April 24	56-27	170-28	36.96	380.930
April 25	56-16	170-02	54.124	435.060
April 26	56-22	170-04	26.87	461.930

Koyo Maru

<u>Position</u>	<u>Daily catch</u>	<u>Accum. catch</u>	
			<u>N</u>
56-19	169-57	20.285	23.890
56-29	170-29	27.360	51.250
56-33	170-35	27.090	78.340
56-38	170-23	35.770	114.110
56-28	170-26	46.020	160.130
56-24	170-08	49.115	209.245
56-29	170-30	36.280	245.530
56-31	170-28	42.240	287.770
56-22	170-06	35.880	323.65
56-22	170-09	45.115	368.77
56-28	170-15	40.090	408.860
56-23	170-05	44.310	453.170
56-24	170-08	36.295	489.460
56-22	170-15	43.475	532.935

24 23

North Pacific Fishery Management Council

CHAIRMAN

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March 10, 1977

MEMORANDUM

TO: All Council Members

FROM: Council Staff

SUBJECT: Japanese GIFA

The following is a quick analysis of the Agreement between the Government of the United States of America and the Government of Japan concerning fisheries off the coast of the United States of America initiated on February 10, 1977 and intended to go into effect in one year, after approval by Congress and the Japanese Government. This analysis is made with general reference to the GIFA with Poland, which can be considered a model of the genre, and how it treats the Pacific salmon resource.

Basic definitions and intent are consistent in Articles I and II as they relate to Articles I and II in the Polish agreement. The arrangement for periodic bilateral consultations in Japanese Article III may be construed as a generality with no specific timetable. The establishment of an appropriate multi-lateral organization for the collection and analysis of scientific data appears to be in line with other foreign agreements.

The determinations by the Government of the United States in Article IV which include 1) the total allowable catch based on optimum yield of the resource, 2) what portion of the total allowable catch which will be harvested by U.S. fishing vessels and the portion that will subsequently be made available to fishing vessels of Japan, appear to be in order. The measures necessary to prevent overfishing are not spelled out as in the Polish GIFA; whether this will affect the U.S. ability to institute necessary control measures is doubtful.

The measures which do not appear in the Japanese agreement but do in the Polish GIFA are 1) designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with

specified types and quantities of fishing gear; 2) limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass and other factors; 3) limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each vessel or the total fleet may engage in fishing in a designated area within the fishery conservation zone or for specified fishery; 4) requirements as to the types of gear that may or may not be employed; and 5) requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position fixing and identification equipment.

The Japanese GIFA says only that the U.S. "shall determine each year---the following---(c) the measures necessary to prevent overfishing."

References to salmon in the Japanese agreement occur in three places. Article VI says that the governments of Japan and of the United States shall hold consultations concerning necessary conservation measures for the anadromous species in such waters where fish of U.S. origin intermingle with the same species of other origins. In the preamble Japan acknowledges U.S. authority over anadromous species -- of U.S. origin throughout their migratory range.

Paragraph 2 of the Agreed Minutes, stating the U.S. intention to consult with the Government of Japan prior to an enforcement action regarding anadromous species outside 200 miles seems to negate the acknowledgement of U.S. authority as stated in the preamble. This may be the most unpalatable of the references to salmon in the agreement.

This is foggy language and may present difficulties, over and above those inherent in the salmon distribution and migration patterns, in developing an effective management regime. Rapid development of a Council management plan for the ocean salmon fisheries may reveal the agreement's strengths and weakness' in time to avoid getting locked into this five year agreement. Assuming of course that the agreement as written adversely affects management of our salmon stocks.

Articles of Agreement pertaining to marine mammals, vessel identification, U.S. observers, seizure of Japanese vessels, penalty restrictions, scientific research, 12 month termination notice and 24 month review notice appear to be in order, and consistent with other agreements.

All procedures governing the application and issuance of foreign permits appear to be consistent with every other international fishery agreement.

Considering the final Annexes to the Japanese agreement, there is no mention or reference to any mechanism for negotiating gear losses, i.e., the Polish/American and Russian/American agreements for negotiating gear losses. Also apparent in the last Annex to this agreement is the contradiction in reporting requirements from the two coasts, requiring quarterly catch and effort statistical reports from the Atlantic coast and yearly catch statistics from the Pacific coast.

In the Agreed Minutes there is a provision to allow Japanese fishing vessels to enter United States ports in accordance with U.S. laws for the purpose of purchasing bait, supplies, or outfits, or effecting repairs, or such other purposes as may be authorized. This seems rather superflous since Japanese ships are already permitted under U.S. law to do all those things - it probably helps its image in Japan however.

In summary, it can be said that the Japanese GIFA is far from being specific on many of the issues and in fact, is so foggily written that it can mean almost anything to almost anyone. That is probably the rationale behind its writing. We have known from the start that the Japanese Government had a great deal of difficulty even talking about the subject, let alone agreeing to the Fishery Conservation and Management Act of 1976. Perhaps the GIFA should be judged more on what is left unsaid than what is said. We know from past agreements with Japan over fishery matters in the North Pacific that many of the things that have actually been negotiated and eventually regulated did not appear in the written agreement available for general perusal.

The fact that all of the countries engaged in the fisheries of the North Pacific have agreed, at least in essence, to abide by U.S. authority to 200 miles, and beyond for anadromous species and continental shelf resources is a tremendous accomplishment that many doubted would ever happen when the legislation was first passed. Perhaps initial agreements should be viewed from that perspective.

29

AGREEMENT BETWEEN THE
GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF JAPAN
CONCERNING FISHERIES OFF THE COASTS
OF THE UNITED STATES OF AMERICA

The Government of the United States of America and the
Government of Japan,

Considering their common concern for the rational management,
conservation and optimum utilization of fishery resources off the
coasts of the United States,

Recognizing that there have been new international developments
on the law of the sea,

Acknowledging that the United States has established a fishery
conservation zone within 200 nautical miles of its coasts within
which the United States exercises fishery management authority over
all fish and that the United States also exercises such authority
over the living resources of the continental shelf appertaining
to the United States and over anadromous species of fish of United
States origin throughout their migratory range,

Acknowledging also that Japan has been cooperating for the
rational management and conservation of the living resources of the
high seas off the coasts of the United States and that the nationals
and vessels of Japan have traditionally been engaging in the
development and utilization of these resources, and

Desirous of establishing reasonable terms and conditions per-
taining to fisheries of mutual concern,

Have agreed as follows:

ARTICLE I

The Government of the United States and the Government of Japan undertake to ensure effective conservation, optimum utilization and rational management of the fishery resources of mutual interest off the coasts of the United States and to establish a common understanding of the principles and procedures under which fishing may be conducted by nationals and vessels of Japan for the living resources off the coasts of the United States over which the United States exercises fishery management authority.

ARTICLE II

As used in this Agreement, the term

(1.) "fishery conservation zone" means an area of waters contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States is measured;

(2.) "living resources off the coasts of the United States" means all fish within the fishery conservation zone, all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters (hereinafter referred to as the "anadromous species of United States origin"), throughout their migratory range, and sedentary species of the continental shelf appertaining to the United States which are, at the harvestable stage, either immobile on or under the seabed, or unable to move except in constant physical contact with the seabed or subsoil;

(3.) "fish" means all finfish, mollusks, crustaceans, and other forms of marine animal and plant life, other than marine mammals, birds, and species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean;

(4.) "fishery resources" means one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics;

(5.) "fishery" means any fishing for fishery resources;

(6.) "fishing" means

- (A) the catching, taking or harvesting of fish;
- (B) the attempted catching, taking or harvesting of fish;
- (C) any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish; or
- (D) any operations at sea directly in support of, or in preparation for, any activity described in sub-paragraphs (A) through (C) above, provided that such term does not include other legitimate uses of the high seas, including any scientific research activity conducted by a scientific research vessel;

(7.) "fishing vessel" means any vessel, boat, ship or other craft that is used for, equipped to be used for, or of a type that is normally used for

- (A) fishing;
- (B) performing any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing; or
- (C) aiding or assisting one or more vessels at sea in the performance of any activity mentioned in (A) or (B) above;

(8.) "marine mammals" means any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea, or primarily inhabits the marine environment, such as polar bears.

ARTICLE III

The Government of the United States and the Government of Japan shall carry out periodic bilateral consultations regarding the implementation of this Agreement, the determinations to be made by the Government of the United States in accordance with Article IV of this Agreement and the development of further cooperation in the field of fisheries of mutual concern, including the establishment of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

ARTICLE IV

1. The Government of the United States shall determine each year, with respect to the living resources off the coasts of the United States, the following, taking into account, as appropriate, the consultations with the Government of Japan referred to in Article III of this Agreement, subject to such adjustments as may be necessitated by unforeseen circumstances affecting the stocks;

- (A) the total allowable catch for each fishery resource to be determined on the basis of the best available scientific evidence and with a view to achieving on a continuing basis the optimum yield of resources, taking into account the interdependence of stocks, internationally accepted criteria, and all other relevant factors;
- (B) the portion of the total allowable catch for a specific fishery resource that, on an annual basis, will not be harvested by fishing vessels of the United States and may be made available to fishing vessels of Japan; and
- (C) the measures necessary to prevent overfishing.

2. The Government of the United States shall notify the Government of Japan of the determinations referred to in paragraph 1 above on a timely basis.

ARTICLE V

In determining the portion that may be made available to fishing vessels of Japan in accordance with Article IV, paragraph 1 (B) of this Agreement, the Government of the United States shall promote the objective of optimum utilization, and shall take into account, inter alia, traditional fishing by nationals and vessels of Japan, contributions to fishery research and the identification of stocks by Japan, previous cooperation by Japan in enforcement and with respect to conservation and management of fishery resources of mutual concern, and the need to minimize economic dislocation in cases where fishing vessels of Japan have habitually fished for living resources off the coasts of the United States.

ARTICLE VI

In view of the fact that the anadromous species of United States origin intermingle with such species of other origins in certain waters of their migratory range, the Government of Japan and the Government of the United States shall hold consultations concerning necessary conservation measures for the anadromous species in such waters.

ARTICLE VII

The Government of Japan shall take all necessary measures to ensure:

- (A) that nationals and vessels of Japan refrain from fishing for living resources off the coasts of the United States, except as authorized pursuant to this Agreement;

- (B) that all such fishing vessels engaging in fishing under this Agreement comply with the terms and conditions established under this Agreement; and
- (C) that the portion referred to in Article IV, paragraph 1 (B) of this Agreement is not exceeded for any fishery.

ARTICLE VIII

1. The Government of Japan shall provide the Government of the United States with information concerning the identity and operation of each fishing vessel of Japan that wishes to engage in fishing for living resources off the coasts of the United States, in accordance with Annex I of this Agreement, which forms an integral part hereof.

2. On receipt of the information referred to in paragraph 1 above, the Government of the United States shall take the necessary administrative measures, including the issuance of permits pursuant to applicable laws of the United States, to enable fishing vessels of Japan, in accordance with the provisions of this Agreement, to engage in fishing for living resources off the coasts of the United States. Such measures may include requirement of the payment of reasonable fees to facilitate the implementation of this Agreement and to ensure the conservation and management of the living resources off the coasts of the United States.

ARTICLE IX

The Government of Japan shall ensure that nationals and vessels of Japan refrain from harassing, hunting, capturing or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the fishery conservation zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization

for and controls on incidental taking of marine mammals established by the Government of the United States.

ARTICLE X

The Government of Japan shall ensure that in the conduct of the fisheries under this Agreement, fishing vessels of Japan comply with any administrative measures taken by the Government of the United States in accordance with Article VIII, paragraph 2 of this Agreement.

ARTICLE XI

1. The Government of Japan shall take appropriate measures to ensure that each fishing vessel of Japan fishing pursuant to this Agreement for living resources off the coasts of the United States, allow and assist the boarding and inspection of such vessel by any duly authorized enforcement official of the United States, and cooperate in such enforcement action as may be undertaken.

2. In cases of seizure of a fishing vessel of Japan and of arrest of its crews by the authorities of the Government of the United States, notification shall be given promptly through diplomatic channels informing the Government of Japan of the action taken.

3. Seized fishing vessels and arrested crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court.

ARTICLE XII

The United States will impose appropriate penalties in accordance with its laws on fishing vessels of Japan or their owners or operators that do not comply with the requirements of this Agreement or of any administrative measure taken hereunder.

ARTICLE XIII

The Government of the United States and the Government of Japan undertake to cooperate in the conduct of scientific research required for the purpose of managing and conserving the living resources off the coasts of the United States, including the compilation of best available scientific information for the management and conservation of stocks of mutual concern. The competent agencies of the two Governments shall enter into such arrangements as may be necessary to facilitate such cooperation, including the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and the implementation and maintenance of a standardized system for the collection and archiving of relevant statistical and biological information in accordance with Annex II, which forms an integral part of this Agreement.

ARTICLE XIV

Nothing contained in this Agreement shall affect or prejudice in any manner the positions of either Government with respect to the extent of internal waters, of the territorial sea, of the high seas, or of coastal state jurisdiction or authority for any purpose other than the conservation and management of fishery resources.

ARTICLE XV

The Annexes to this Agreement may be modified by agreement between the two Governments in the form of an exchange of notes.

ARTICLE XVI

1. This Agreement shall be approved by each country in accordance with its internal procedures. It shall enter into force through an exchange of notes on a date to be mutually agreed upon thereafter

Where other measurement systems are used, appropriate conversion information must be supplied.

- (c) Take a subsample of one fish from each centimeter interval by species and remove scales and otoliths as appropriate. Record the sex of mature individuals.

(2) Length-weight samples

Individuals of one sample of each principal species of fish (e.g., expected yearly catch in the Agreement area of 500 or more metric tons), per International Commission for the Northwest Atlantic Fisheries (ICNAF) Division per month, should be weighed in grams and measured in millimeters. Each sample will contain 10 fish per centimeter interval. The length range of fish may be accumulated if necessary from small samples taken over several catches and days. With small fish, where weighing at sea of individuals is not accurate, appropriate numbers of fish of the same length class shall be weighed in aggregate. Sex shall be recorded for mature individuals.

B. Pacific Coast

Biological sampling by fishing vessels of Japan shall be conducted and measurements from sampling recorded as required according to procedures developed and coordinated through consultations between scientists of the United States and Japan so as to determine the

Mesh sizes

Tonnage of the species sampled in the
trawl haul

Total weight of the fish sampled

Time of day of haul

Date

Latitude and longitude of haul

c Sampling procedures

(i) Species for which the catch is sorted

(a) From a single net haul take 4 random samples of approximately 50 fish each. (For species with less than 200 fish in a single trawl haul accumulate samples over trawl hauls until approximately 200 fish are taken.)

(b) Measure fork length for each fish to nearest centimeter. Where other measurement systems are used, appropriate conversion information must be supplied.

(c) Take a subsample of one fish from each centimeter interval and remove scales and otoliths as appropriate. Record the sex of mature individuals.

(ii) Species for which the catch is not sorted

(a) From a single net haul take 2 random samples of approximately 30 kilograms each.

(b) Measure fork length for each fish to nearest centimeter by species.

- (1) King crab
Tanner crab
Pollock
Pacific cod
Rockfishes
Flatfishes
Sablefish
Herring
Others

- (2) Bering Sea; Subareas 1, 2, 3 and 4
Aleutian Region
Shumagin Region
Chirikof Region
Kodiak Region
Yakutat Region
Southeast Region
Charlotte Region
Vancouver Region
Columbia Region
Eureka Region
Monterey Region
Conception Region
and other designated areas

2. Biological Statistics

A. Atlantic Coast

- (1) Length-age composition samples
 - a Samples should be taken separately for each gear type (e.g., bottom trawl, pelagic trawl, purse seine) and water layer (e.g., on the bottom, midwater level) combination every month for which fishing is pursued by 30-minute square areas throughout the Agreement area. One sample should be taken for every 1,000 metric tons or fraction thereof within the above categories.
 - b Data to be recorded for each sample:
Vessel classification, e.g., trawler,
seiner
Method of fishing, e.g., pelagic
Specific type of trawl, including reference
to its construction or actual scale drawing

metric tons and effort in hours trawling, effort in number of longline (hachi) units, effort in number of pots, effort in number of hours of longline or pots soaking time, effort in number of Danish seine sets, and effort in number of days fishing by vessel class, by gear type, by month, by half degree Latitude x one degree Longitude statistical area, by the following species groups:

- Yellowfin sole
- Rock sole
- Arrowtooth flounder
- Flathead sole
- Dover sole
- Other flounders
- Pacific ocean perch
- Other rockfishes
- Pacific cod
- Sablefish
- Pollock
- Atka mackerel
- King crab
- Tanner crab
- Herring
- Other species taken in excess of 1,000 metric tons
- All other species combined

These annual catch and effort statistics shall be provided using magnetic tape, computer cards or printouts.

In addition to the annual statistical report above, provisional monthly fishery information shall be provided by the end of the following month as follows: catch in metric tons and effort in vessel-days on the grounds by gear type, by vessel class, by the species groups listed in (1) below, for each of the International North Pacific Fisheries Commission (INPFC) statistical areas listed in (2) below:

ANNEX II

The procedures described below are designed to contribute to continuing needs for assessment of the status of stocks and management of fishery resources. However, specific needs may develop from time to time which require a change in standard procedures, or additional data for special studies. Also, the pattern of fisheries will change. These aspects require that the procedures must be flexible enough to accommodate necessary changes.

All data described below shall be provided to the designated representative of the National Marine Fisheries Service of the Department of Commerce of the United States.

1. Catch and Effort Statistics

A. Atlantic Coast

Three months after the close of each quarter, catch and effort statistics for biweekly time periods for 30-minute square areas shall be reported by fishing vessel for the previous quarter. These will be reported using 30-minute square Statlant 21 B Forms, magnetic tape, computer cards or printouts for all species and gear types:

Fishing vessel logbook data is to be available for selected, specific joint assessment studies. The collection of samples, specified in 2 below, should also be annotated in the logbook.

B. Pacific Coast

By May 30 of the following year, annual catch and effort statistics shall be provided as follows: catch in

3. The Government of the United States shall review each application, shall determine what conditions and restrictions related to management and conservation of fishery resources may be needed, and what fee will be required. The Government of the United States shall inform the Government of Japan of such determinations.

4. The Government of Japan shall thereupon notify the Government of the United States of its acceptance or rejection of such conditions and restrictions and, in the case of a rejection, of its objections thereto.

5. Upon acceptance of the conditions and restrictions by the Government of Japan and the payment of any fees, the Government of the United States shall approve the application and issue a permit for each fishing vessel of Japan, which fishing vessel shall thereupon be authorized to fish in accordance with this Agreement and the terms and conditions set forth in the permit. Such permits shall be issued for a specific fishing vessel and shall not be transferred.

6. In the event the Government of Japan notifies the Government of the United States of its objections to specific conditions and restrictions, the two Governments may consult with respect thereto and the Government of Japan may thereupon submit a revised application.

ANNEX I

The following procedures shall govern the application for and issuance of annual permits authorizing fishing vessels of Japan to engage in fishing for living resources off the coasts of the United States:

1. The Government of Japan will submit an application to the Government of the United States for each fishing vessel of Japan that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by the Government of the United States for that purpose.

2. Any such applications shall specify

- (A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner and operator thereof;
- (B) the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other information relating to the fishing characteristics of the fishing vessel as may be requested;
- (C) a specification of each fishery in which each such fishing vessel wishes to fish;
- (D) the amount of fish or tonnage of catch by species contemplated for each such fishing vessel during the time such permit is in force;
- (E) the ocean area in which, and the season or period during which, such fishing would be conducted; and
- (F) such other relevant information as may be requested.

between the Government of the United States and the Government of Japan, and shall remain in force until December 31, 1982 unless terminated sooner by either Government after giving notification of such termination twelve months in advance.

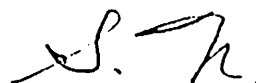
2. This Agreement shall be subject to review by the two Governments two years after its entry into force or upon the conclusion of a multilateral treaty resulting from the Third United Nations Conference on the Law of the Sea.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at _____, on the _____ 1977
in duplicate in the English and Japanese languages, both equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
JAPAN:



representative length, age and weight of individual fish in the catch.

When such samples are collected, the Government of Japan shall provide by May 30 of the following year the annual biological statistics which shall include:

- (1) Length frequency data by vessel class, by gear type, by month, by half degree Latitude x one degree Longitude statistical area, by sex, and by species previously identified in 1 B for annual catch and effort statistics;
- (2) Length-weight data of each principal species (e.g., expected yearly catch in the Agreement area of 500 or more metric tons) by INPFC statistical area (previously identified in 1 B). As scientific need arises, samples of scales or otoliths shall also be taken for age determination.

3. Other Statistical Requirements

As further statistics are required for analyses and should fisheries for other species and areas be conducted (other than those identified in 1 and 2), the procedures for such data collection and reporting shall be developed and coordinated through consultations between scientists of the United States and Japan.

AGREED MINUTES

The representatives of the Government of the United States of America and the Government of Japan have agreed to record the following in connection with the Agreement between the Government of the United States of America and the Government of Japan concerning Fisheries off the Coasts of the United States of America signed today (hereinafter referred to as the "Agreement"):

1. It is understood that the Government of the United States and the Government of Japan will cooperate in the exchange of scientific and technical information relating to species of tuna and other highly migratory species of mutual interest with a view to the establishment of regional arrangements, including appropriate international organizations, to ensure conservation of the species. Such exchanges shall include the reporting of tuna and associated catches.

It is further understood that at the outset of the Agreement and until such time as appropriate, the two Governments will, in order to establish a base of scientific information to further such arrangements, provide each other statistics on tuna and associated catches off the coasts of the United States.

2. The representative of the Government of the United States stated that it was the intention of the Government of the United States that any enforcement action taken with respect to anadromous species beyond the fishery conservation zone by United States authorities would only be taken after consultation with the Government of Japan. X

3. It is understood that with regard to Article XII of the

Agreement, the appropriate representatives of the Government of the United States will recommend to the court in any case arising out of fishing activities under the Agreement that the penalty for violation of fishery regulations not include imprisonment or any other form of corporal punishment.

4. It is understood that with respect to any matter dealt with in the Agreement which falls within its competence, the Government of Japan is prepared to accord to nationals and vessels of the United States wishing to engage in fishing for living resources off the coasts of Japan treatment no less favorable than that accorded to nationals and vessels of Japan under the Agreement in like situation, on the basis of reciprocity.

5. The Government of the United States undertakes to authorize fishing vessels of Japan engaging in fishing pursuant to the Agreement to enter United States ports in accordance with United States laws for the purpose of purchasing bait, supplies, or outfits, or effecting repairs, or for such other purposes as may be authorized.

6. With respect to the conduct of loading operations by fishing vessels of Japan, the representative of the Government of the United States stated that loading areas would be provided, taking into account past practices, and would be set forth in permits or other applicable instruments.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
JAPAN:

February 10, 1977

Excellency,

I have the honor to refer to the recent discussions held between the representatives of the Government of Japan and the Government of the United States of America concerning fisheries matters between the two countries and to confirm, on behalf of the Government of Japan, the following understanding reached between the two Governments, taking into account the Agreement initialled this day, the constitutional processes of both countries and the spirit of mutual cooperation and understanding between the two Governments:

1. Until the Agreement enters into force and in no case after December 31, 1977, Japanese fisheries off the coast of the United States will be conducted in accordance with international law and in accordance with the laws and regulations of both countries, taking into account the conditions of the resources and past fishing practices.
2. (1) The Japanese authorities will provide the authorities of the United States with the names, the registration numbers, the names of the managers and the numbers of the fishing crews and any other pertinent information concerning any Japanese vessels that propose to engage in fishing off the coast of the United States.

His Excellency
Cyrus Vance


(2) On receipt of the information referred to in subparagraph (1) of this paragraph, the Government of the United States will, as appropriate, make necessary administrative arrangements to facilitate the operation of those vessels in accordance with the provisions of this arrangement.

3. Upon the request of either Government, the two Governments will hold consultations in respect of any matter concerning the implementation of this arrangement including the determination of catch amounts for Japanese vessels.

4. Nothing in this arrangement shall be deemed to prejudice the position of either Government in regard to any question under negotiation at the Law of the Sea Conference.

I have further the honor to propose that this Note and Your Excellency's Note in reply confirming the above understanding on behalf of the Government of the United States of America shall be regarded as constituting an agreement between the two Governments which shall enter into effect upon notification by the Government of the United States that the internal procedures of the United States have been completed.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.


Ambassador Extraordinary and
Plenipotentiary of Japan