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Report of the Working Group to Draft a Position Paper
on the Renegotiation of the INPFC for the North Pacific
Fishery Management Council

Juncos
June 13-14, 1977

INTRODUCTION

At its April meeting on the recommendation of the Scientific and Statistical Committee, the Council approved a working group to prepare a position paper on the renegotiation of the INPFC. This group consisted of Donald Bevan, Frank Fukuhara, E. J. Huizer, Jack Lechner, Harold Lokken, Edward Miles, Steve Pennoyer, and Warren Wooster. There were great difficulties in finding a time when all members could be present. A meeting was held in Juneau on June 13 and 14 when only five members of the group appeared. These were Messrs. Fukuhara, Huizer, Lechner, Miles and Pennoyer. Given the timing of the U. S. delegation meetings set for mid-July, the five members thought it necessary to prepare a paper even with so few members of the group present. This would still give the Council a basis for determining their position at the June meeting.

The group had at its disposal the following working papers: 1) Preliminary Management Plan: High Seas Salmon Fishery of Japan; 2) the Department of Commerce Options Paper regarding INPFC of May 17, 1977; and 3) the State of Alaska Working Paper regarding INPFC of May 25, 1977. The group decided that there was no need to identify any additional options and defined its task as one of narrowing the range of choice and providing some rationale for doing so.

United States Public Law 94-265 requires the renegotiation of the INPFC because the latter is essentially in conflict with that Act. The specific areas of conflict arise because the Act:

(1) gives the United States exclusive enforcement and management authority; (2)

authorizes the United States to allocate species under its fishery management

authority; (3) bases management and allocation decisions on "optimum yield" as

opposed to "maximum sustained productivity;" (4) provides for U. S. jurisdiction

over anadromous species of U. S. origin and Continental Shelf fishery resources

within and beyond the U. S. zones as well as fishery resources within the U. S.

200-mile zone, including those mentioned in the Annex to the Convention; (5) does

not include a requirement for consultations and unanimous approval for decisions

regarding the impact of other countries upon Convention-area resources; (6)

requires the provision of data as a condition for fishing for resources under U. S.

fishery management authority; and (7) clearly gives U. S. fishermen preferential

access to the allowable catch.

A new treaty should involve only salmon because the species is unique in that

certain stocks migrate beyond the 200-mile zone and intermingling extensively with

salmon of Asian origin. Japan's high seas salmon fisheries, in taking Asian salmon,

will therefore inadvertently also capture North American salmon. Some international

forum is necessary in the short-run to continue studies which will support regulation

designed to minimize the interceptions of salmon of North American origin.

In addition to the problem of salmon interceptions, there are two other jobs

which need to be tackled. The first, also of great urgency, relates to arrangements

concerning data collection, analysis and research on groundfish stocks within the

U. S. 200-mile zone. The second, of longer term significance, relates to the

creation of a new organization for marine science and marine uses in the North

Pacific Ocean.

RECOMMENDATIONS

Accordingly, the group unanimously recommends to the Council:

1) that the INPFC be superseded by a trilateral agreement between the United States, Canada and Japan dealing with the high seas salmon fishery of Japan.

2) That, with respect to groundfish resources fished by foreign nations within the U. S. Pacific fishery conservation zone, the U. S. immediately begin to sponsor annual meetings involving all countries which have signed a Governing International Fisheries Agreement (GIFA), including Canada and Mexico if desired, to exchange data and review the status of stocks and research plans on species of mutual concern.

3) That a new organization of wider membership be created to deal with:
a) cooperative aspects of fisheries research, analysis and data exchange for the North Pacific; b) all other marine scientific research, analysis and data exchange affecting the North Pacific; c) pollution monitoring in the North Pacific; and d) exchange of data and analysis relating to the management of multiple use conditions and conflicts in the North Pacific.

RATIONALE

Recommendation #1

While the short range goal should be to renegotiate INPFC in such a manner that the harvest of North American salmon of all species on the high seas by Japan is reduced to an acceptable level, the long range goal should be the ultimate

elimination of all high seas net fishing for salmon as a wasteful fishery not in the best interest of conservation of the salmon resource.¹

A new treaty containing a salmon abstention line should be negotiated in order to retain the benefits to the United States and Canada of an abstention line which will prevent the eastward movement of the Japanese fishery into the Gulf of Alaska. This treaty should contain provisions which will minimize the interception of North American salmon west of the abstention line and it should also provide for cooperative arrangements covering research and analysis on the origins of salmon outside 200-mile zones.

A new treaty should again involve only Japan, Canada, and the United States:

- A. Japan, because it is the only country which practices salmon net fishing on the high seas in areas where Asian and North American salmon intermingle;
- B. Canada, because:
 - 1. It contributes some salmon (Yukon River chinook and chum) to Japan's Bering Sea catch, and;
 - 2. There is a continuing need to protect other salmon stocks by an abstention line.

¹ U. S.-Canadian problems on salmon management are regarded as distinct from the problem of the Japanese high seas salmon fishery and are therefore not included in the present discussion.

C. The United States because:

1. Western Alaska will continue to be the major contributor of salmon of North American origin to the Japanese catch, and;
2. There is a continuing need to protect other salmon stocks by an abstention line.

D. The U.S.S.R. is a significant factor in the overall anadromous fish problem of the Bering Sea and North Pacific Ocean. However, an attempt to include the U.S.S.R. in a new regulatory-type treaty in all probability will be rejected by Japan. Arrangements relating to the problem of interceptions of North American salmon in the Soviet area are therefore specified later in the paper.

E. All other important United States fishery resources occur almost totally within waters under United States jurisdiction and can be adequately taken care of by Public Law 94-265 (except for highly migratory and pelagic species outside the United States 200-mile zone). Canada has no other direct concerns with Japan which cannot be taken care of in conformity with Canada's new 200-mile regime.

The group calls the Council's attention to a need to decide whether the new treaty arrangement should include a Commission or not and whether implementing legislation will be required if the answer is in the affirmative.

Specification of Conditions to be Included in the New Treaty for the High Seas Salmon Fishery of Japan

Consideration should be given to the termination date of the treaty and to its

continuation on an annual basis after the termination date. If salmon interceptions are being held to an acceptable level in the intermingling area, there may be no need to renegotiate after the termination date.

The preamble to a new treaty should make it clear that the purpose of the treaty is to deal with the special relationships between (a) the United States and Japan, (b) Canada and Japan, and (c) the United States and Canada jointly and Japan regarding the conduct of the Japanese high seas fishery in areas where salmon of north American origin are known to occur or where there is concern that they may occur. The new treaty should in no way be involved in the interactions between Canada and the United States on the salmon interception issue between the two countries.

The new treaty should contain an article which recognizes the extended fishery zones which the United States, Canada, and Japan have adopted, and the exclusive nature of the fishery jurisdiction of each country in its own zone. Without such explicit recognition in the treaty it is possible that through omission or otherwise the new treaty might be construed as superseding Public Law 94-265.

The treaty should also include the principle of Optimum Yield and the question of fees should be considered. It should be made clear as well that any allocations or quotas of high seas salmon established under the Japanese-U.S.S.I. annual salmon agreements do not, by inference, include any salmon within the United States 200-mile zone.

The convention area should be defined as all waters of the North Pacific Ocean and Bering Sea, other than the Soviet 200-mile zone and the territorial waters of the parties. It should be divided into subareas, the boundaries of which are noted in an Annex to the Convention. These boundaries would include an abstention line. Subarea I could be those waters where Japan has not traditionally fished for salmon. Although Asian salmon do intermingle with North American-origin salmon in those waters, Japan would be prohibited from fishing for or retaining salmon in this subarea.

Subarea II could be those waters west of Subarea I which are within the U. S. fishery conservation zone. This subarea would be an expansion of the area in which Japan agreed to voluntary restraints on salmon fishing in recent years. Enforcement in this subarea would be by the United States, and closed seasons, gear limitations, etc., would be consistent with management plans developed by the United States but taking into account the views of Canada regarding Canadian-origin salmon which may migrate through the U. S. zone.

Subarea III would be west of the abstention line and outside the U. S. zone where U. S. and Canadian salmon are known to be present. The protection of U. S. and/or Canadian salmon in this area would require special discussion. There are two options which could be followed here. The first would treat this problem fully in accordance with the requirements of Public Law 94-265 in the sense that the Council would prepare management plans for the resources in the area. These plans would be approved by the Secretary and Japan would then be obligated to accept. The second option would be to conduct special bilateral/tri-

lateral negotiations, the results of which would be binding.

Subarea IV could be those waters other than the above where research on the distribution of North American-origin salmon would continue. If evidence of interceptions is found, this would be treated as a Subarea III case and the parties would agree to take measures⁴ to reduce interceptions of North American salmon to certain levels. Subarea IV would also include waters in which the Japanese land-based driftnet salmon fishery takes place, as well as a small portion of the current Mothership fishery area.

In the creation of such an arrangement, two questions arise which the Council should consider. What is the relationship between a new treaty and Public Law 94-265 in terms of the responsibilities of the North Pacific Fishery Management Council? How should the existing scientific advisory group for the INPFC be restructured? The new treaty could include a scientific panel to review salmon research and receive information which would be useful in the development of the high seas salmon fishery management plan.

Enforcement provisions in the new treaty must be substantially different from the current treaty where flag nation enforcement prevails throughout the convention area. Recommendations for enforcement provisions are as follows:

A. West of the abstention line:

1. In the United States 200-mile zone, enforcement will be by the United States.
2. Outside the United States 200-mile zone, enforcement will

be by Japan.

B. East of the abstention line, the enforcement should be by the United States both inside and outside the 200-mile economic zone for both the Mothership and landbased gill net fleets.

The Problem of Salmon Interceptions in the Soviet Zone

Even though the U.S.S.R. has severely restricted Japanese salmon fishing in the Soviet Zone for 1977, this situation may change from year to year. Such a contingency should be anticipated in the new treaty.

Section 202(a) of Public Law 94-265 provides that the Secretary of State shall, upon the request of and in cooperation with the Secretary of Commerce, initiate and conduct negotiations for the purpose of entering into fishery agreements which provide for the conservation and management of anadromous species. The Act does not assert the exclusive fishery management authority of the United States over anadromous species during the time they are found within any foreign nation's territorial sea or fishery conservation zone (or the equivalent), to the extent that such sea or zone is recognized by the United States.

As indicated in Table J, interceptions of North American-origin salmon within the waters now encompassed by the Soviet 200-mile zone represented 5 percent of the total Mothership harvest of North American salmon during 1964-73. During that same period, 30 percent of the Japanese Mothership fishery's harvest of Asian salmon was taken within the waters now encompassed by the Soviet 200-mile zone.

In view of the above, it would appear that the United States would have essentially two alternatives: either (1) that United States could enter into a formal agreement with the Soviet Union regarding measures to be taken within the Soviet Zone to reduce interceptions of U. S.-origin salmon; or (2) the United States and U.S.S.R. could hold consultations on an annual basis to discuss reductions in interceptions in the Soviet zone. These discussions could bring to the attention of the U.S.S.R. available information on migration patterns and rates of interception and the U. S. should request that the Soviets take this information into account in the development and implementation of Soviet fisheries management plans applicable to the Soviet zone.

Of these two alternatives, number 2 might be more appropriate in that alternative number 1, a U. S.-U.S.S.R. agreement, would provide no advantages to the U.S.S.R. unless it was reciprocal; e.g., the United States agreed to regulate Japanese fisheries for Asian salmon within the U. S. zone. Furthermore, in order for the United States and the U.S.S.R. to agree upon measures necessary to reduce interceptions of U. S. salmon in the Soviet zone it would be necessary to have a reasonably good picture of intended Soviet regulations for the coming season. The Soviets would probably be either unwilling or unable to provide such information prior to U.S.S.R.-Japan negotiations, and U. S. input after the negotiations could not be effectively utilized. The utility of the second alternative is that it would provide a channel for the transmission of information while avoiding the appearance of U. S. interference in any Asian salmon fishery conducted in the Soviet zone.

TABLE 1

Sector of Mothership Area (200-mile line truncated at the U.S.-U.S.S.R. 1967 treaty line)	Est. of Ave. Annual catches by Japan mothership salmon fishery 1964 - 1973			
	North American salmon		Asian Salmon	
	1,000s of fish	Percent	1,000s of fish	Percent
Inside U.S. 200 mile zone	1,686	67	4,788	25
Inside Soviet 200 mile zone	140	5	5,678	30
Outside U.S. & U.S.S.R. 200 mile zones	708	28	8,588	45
TOTAL	2,534	100	19,054	100

Recommendation #2: A Multilateral Annual Meeting of all GIFA Nations
Concerning Scientific Research Relating to Stocks Within the U. S. Pacific
Fishery Conservation Zone

The group has recommended that the U. S. sponsor an annual meeting involving all countries with which it has a GIFA, including Canada and Mexico if desired, to exchange data and review the status of stocks and research plans on species of mutual concern. These meetings are to be consultative in nature in relation to issues of data collection, analysis, interpretation, and cooperative research projects; they are not to deal with questions of regulation.

There are several reasons why the group thinks such meetings are necessary. First, the Secretary and the North Pacific and Pacific Councils are faced with the immediate problem of getting adequate data and analysis relating to the stocks within the U. S. zone and agreeing with foreign nations on cooperative research projects. The resolution of these problems cannot wait upon the creation of a new multilateral scientific organization which will take several years. These meetings can be phased into the new organization when it is created. Secondly, the Councils are required to make decisions on the basis of the best scientific information available. Some of this information is in the archives of foreign countries.

The meetings we are recommending should focus solely on the North Pacific/Bering Sea areas. Salmon should not be included here because all important groundfish resources, except for limited migrations across the Canadian boundaries, remain within the United States zone. The U. S. should therefore assume the

central, secretariat/coordinating function for these annual meetings.

Recommendation #3: Creation of a Multilateral Scientific Body for the North Pacific/Bering Sea

The group has recommended that a new organization be created, of wider membership than the current INPFC, which would deal with: a) all questions of fisheries data collection, exchange, analysis and cooperative research (except those affecting salmon); b) all questions of data collection, exchange, analysis and cooperative research in marine science more broadly conceived; and c) data collection, exchange, analysis and cooperative research dealing with the management of multiple use conditions and conflicts in the North Pacific.¹

The case for improved arrangements for scientific coordination in the North Pacific is based on the following considerations:

1. Despite the extensions of national jurisdiction now taking place or likely to take place in the North Pacific, international use of ocean space is intensifying, and conflicts among uses are certain to increase. Management decisions on the multiple use of the ocean and its resources should be based in part on vastly improved scientific understanding of oceanic processes and phenomena in the region.
2. In particular, conflicts in the use of living resources both within and

¹ The scientific advisory groups to existing organizations concerned with marine resources for the North Pacific could also be asked to participate in this new organization.

beyond the limits of national jurisdiction are bound to increase. Despite existence of several international bodies for the management of specific fishery resources in the region, there is no overall mechanism for the exchange of data and information on the status of stocks on which national and international decisions on resource management can be based.

3. Increasing uses of ocean resources, transport of petroleum and other potentially toxic products, and industrial activities around the margins of the North Pacific are magnifying threats to the health of the marine environment. No mechanism exists for the pooling of efforts to understand and monitor these threats.

4. Scientific investigations are conducted in the North Pacific under the auspices of several governments, including U.S.A., U.S.S.R., Canada and Japan. These investigations are in all fields of marine science and its applications. Some are multi-institutional and include arrangements for inter-institutional coordination; others are the efforts of single institutions. No mechanism exists for the overall coordination of these investigations.

5. Data resulting from these investigations, in part at least, eventually find their way into the world data exchange system. However, there is no mechanism for the orderly and timely exchange of data and information among those governments and institutions engaged in the research.

A properly constituted international organization might provide the means for improving exchange of data and information and coordination of scientific activities. The organization should be inter-governmental if it is

to be taken seriously by the governments concerned. It should not be directly involved in management of the use of resources, but should concentrate on instigating scientific activity, facilitating the coordination of such activity and the exchange of data and other information resulting therefrom, promoting the exchange of information concerning fishing activities and other ocean uses, and providing the collective scientific assessment and advice on which proper management decisions can be taken by those charged with such responsibility.

In view of the multiple uses of the North Pacific and its resources, the organization should be concerned with a broad range of scientific activities including physical oceanography, air-sea interaction, marine chemistry, biological oceanography, and marine geology and geophysics. From the utilization point of view, its interests should comprehend research affecting the exploitation of living and non-living resources, protection of the quality of the marine environment, the forecasting of ocean weather and climate, and the management of multiple use conditions and conflicts. In connection with these activities and interests, the organization should promote the following:

1. Coordination of research and monitoring of oceanic processes and uses.
2. Exchange of data and information relating to research, monitoring, and uses.
3. Assessment of resulting information and, where appropriate, formulation of scientific advice.

It will take some time and sustained attention for the Council to design

an appropriate structure for such an organization and to conduct an evaluation of how it would work. The group therefore suggests that specific recommendations on these issues be deferred to Fall, 1978.