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APPROVED
APR 13 1976

80/13/76

THE WHITE HOUSE
WASHINGTON

ACTION

Last Day: April 13

Statement
issued 4/13/76

TO ARCHIVES
4/14/76

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON *JC*

SUBJECT:

H.R. 200 Fishery Conservation
and Management Act of 1976

Attached for your consideration is H.R. 200, a bill to conserve and manage U.S. fisheries, and to protect U.S. fishing interests, by extending U.S. fisheries jurisdiction from 12 miles to 200 miles (and beyond for certain fisheries). The bill is to take effect on March 1, 1977.

Background

The initial House version of the bill passed 208-101 and the Senate passed it 77-19. The conference report passed the House 346-52 with the Senate not recording a vote.

The main provisions of the bill are as follows:

Title I - Provides exclusive U.S. management authority over all fisheries in the new zone except for highly migratory species (tuna), and extends U.S. authority beyond 200 miles for fish spawned in U.S. fresh waters but migrate to the oceans (salmon).

Title II - Prohibits foreign fishing in the new zone except through treaties and agreements. Permits for each foreign vessel will be required from the Secretary of State, approved by the Secretary of Commerce.

Title III - Establishes a national program of fish management and conservation under the Secretary of Commerce, requiring eight regional councils composed of local, State and Federal officials. The Councils



will formulate and recommend management plans to the Secretary. Under Title III, penalties for violations provide for seizures, forfeitures, and imprisonment of foreign nationals. The Coast Guard is assigned enforcement responsibility.

Title IV - Authorizes appropriations to the Secretary of Commerce to implement the bill (escalating from \$500,000 in FY 76 to \$30 million for FY 78).

The agencies recommending disapproval of the bill suggest serious problems. The assertions are that enactment could:

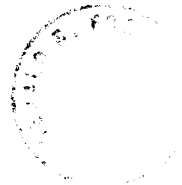
- be harmful to negotiations in the U.N. Law of the Sea Conference.
- lead to incidents at sea.
- undermine consistent U.S. posture in favor of international -- as opposed to unilateral -- resolution.
- infringe on the President's constitutional authority for the conduct of foreign affairs.

In addition, State and Justice express concern that:

- assertion of U.S. jurisdiction beyond 200 miles is inconsistent with international law.
- foreign fish prohibitions violate obligations under the General Agreement on Tariffs and Trade.
- time limits for treaty negotiations are unrealistic.

Those who recommend approval cite the following reasons:

- the general perception is that you have already agreed to approve the bill.
- a veto override is likely (Max Friedersdorf thinks a veto would be very difficult to sustain).
- the bill provides for immediate protection of the fisheries and the U.S. fishing industry.
- approval would underscore U.S. determination to act forcefully to protect its interests.



-- the New England States are highly favorable to the bill, and even the Gulf State governors are not voicing opposition.

Agency Recommendations

Approval

OMB (bill report at Tab A)
 Commerce
 Council on International
 Economic Policy
 Council on Environmental
 Quality
 Transportation (no objection
 on enforcement provision;
 defers to State on foreign
 policy aspects)

Disapproval

State
 Justice
 Defense
 National Science Foundation
 Special Representative for
 Trade Negotiations
 Environmental Protection
 Agency
 Interior (defers to State)
 NSC (opposes legislation)

Staff Recommendations

OMB, Bill Seidman, Max Friedersdorf, Phil Buchen and I recommend approval of H.R. 200.

Signing Statement

Should you decide to approve the bill, differing recommendations are offered on the advisability of your issuing a signing statement. OMB says, "In our view, no useful purpose would be served by a signing statement . . . we believe it would be premature to forecast the need for amendments until the Executive Branch has had an opportunity to operate under the bill . . ." Max Friedersdorf, Bill Seidman and I also recommend no signing statement.

Phil Buchen strongly urges a signing statement pointing out the potential problems with international law and other agreements. Others recommending a statement are NSC, State and National Science Foundation. Congressman Bob Wilson, representing the San Diego area that is the home of the basic U.S. tuna fleet, is opposed to the bill, but urges a statement recognizing free naval passage and the commitment to protect the rights of the "distant water" U.S. fishermen.

Decisions

SIGN H.R. 200 at Tab B.

Approve signing statement at Tab C.
(cleared by Bob Hartmann (Doug Smith), Phil Buchen,
Brent Scowcroft)

RF Approve _____ Disapprove

OR

DISAPPROVE H.R. 200 and sign veto message at Tab D _____.



A





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

APR 8 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 200 - Fishery Conservation and Management Act of 1976
Sponsors - Rep. Studds (D) Massachusetts and 25 others

Last Day for Action

April 13, 1976 - Tuesday

Purpose

Extends exclusive U.S. fisheries jurisdiction from 12 miles to 200 miles (and beyond for certain fisheries); restricts foreign fishing for fisheries covered under this extended U.S. jurisdiction; requires the renegotiation of existing international fisheries agreements; establishes a national fishery management program; and for other purposes.

Agency Recommendations

Office of Management and Budget	Approval
Department of Commerce	Approval
Council on International Economic Policy	Approval
Council on Environmental Quality	Approval
Department of the Treasury	No objection
Department of Transportation	No objection on enforcement provisions; defers to State on foreign policy aspects
Department of State	Disapproval (Veto Message attached)
Department of Justice	Disapproval
Department of Defense	Disapproval
National Science Foundation	Disapproval
Special Representative for Trade Negotiations	Disapproval
Environmental Protection Agency	Disapproval (informal)
Department of the Interior	Defers to State
National Security Council	No recommendation

Discussion

The primary purpose of H.R. 200 is to effectively conserve and manage U.S. fishery resources by extending exclusive U.S. fisheries jurisdiction from the current statutory limit of 12 miles to 200 miles and by providing for the development and implementation of fisheries management plans applicable to all foreign and domestic fishing activities under such extended jurisdiction.

Title I of the enrolled bill -- Fishery Management Authority of the United States -- establishes, effective March 1, 1977, the new 200 mile fishery conservation zone contiguous to the U.S. territorial sea. The bill provides that within the new zone the United States shall exercise exclusive fishery management authority over all fish, except highly migratory species (i.e., tuna) -- it is intended that such species be managed pursuant to international agreements. Exclusive U.S. jurisdiction would also apply beyond the new zone to anadromous species (fish that spawn in U.S. rivers and streams and migrate to ocean waters -- e.g., salmon) throughout their migratory ranges and to all Continental Shelf fishery resources. The bill would maintain existing U.S. ocean jurisdiction without change for all purposes other than the conservation and management of fishery resources.

Title II -- Foreign Fishing and International Fishery Agreements -- establishes restrictions on foreign fishing in fisheries subject to extended U.S. jurisdiction. After February 28, 1977, no foreign fishing would be authorized within the zone, or for anadromous species or Continental Shelf fishery resources beyond the zone, unless pursuant to an existing international fishery agreement or to a new "governing international fishery agreement" negotiated under the bill. In addition, fishing by vessels of any foreign nation would be allowed only if such nation accords reciprocal fishing privileges to U.S. fishing vessels. H.R. 200 also would require foreign nations to obtain permits from the

Secretary of State for each of its vessels wishing to engage in the fisheries subject to extended U.S. jurisdiction. The bill requires the Secretary of Commerce to approve each permit and establishes detailed criteria for the issuance of such permits. Finally, the allowable level of foreign fishing would be limited to that portion of the optimum yield of any fishery which would not be harvested by U.S. fishermen, as determined under the bill.

Title II also provides for the transition to extended U.S. fisheries jurisdiction by requiring the Secretary of State to initiate promptly the renegotiation of any treaty pertaining to fisheries covered under the bill in order to conform such treaty to the bill's provisions. H.R. 200 states the sense of Congress that the United States shall withdraw from any such treaty if it is not so renegotiated within a reasonable period of time. Similarly, the bill directs the Secretary of State to negotiate new "governing international fishery agreements" which shall, among other things, acknowledge the exclusive fishery management authority of the United States established in the bill. After May 31, 1976, no existing agreement may be renegotiated or new agreement entered into unless it conforms to the provisions applicable to governing fishery agreements. The President is required to transmit the text of each governing fishery agreement to Congress. An agreement shall not become effective if Congress disapproves it by joint resolution within 60 calendar days of continuous session after Presidential transmittal.

Finally, Title II requires the Secretary of the Treasury to embargo fishery imports from any foreign country when the Secretary of State determines that such country has failed to negotiate in good faith to allow U.S. fishermen equitable access to its fisheries, has improperly seized U.S. fishing vessels, or in certain other circumstances.

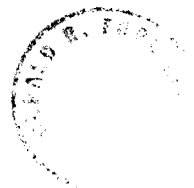
Title III of the bill -- National Fishery Management Program -- establishes a national fishery

management program for the conservation and management of fishery resources subject to exclusive U.S. fishery jurisdiction. The Secretary of Commerce is generally responsible under the bill for carrying out the program although with regard to enforcement at sea, he shares that responsibility with the Secretary of the department in which the Coast Guard is operating.

Title III provides for the creation of eight Regional Fishery Management Councils similar in structure, purpose and functions but varying in terms of the total number of members. Membership of the Councils is composed of the principal State fishery officials from each constituent State, appropriate federal officials, and members appointed by the Secretary of Commerce from among lists of qualified individuals submitted by the Governor of each applicable constituent State.

The Councils' responsibilities include the preparation of management plans for each of the fisheries within their geographical jurisdictions consistent with the national fishery conservation and management standards contained in the bill. H.R. 200 sets forth in detail the mandatory and discretionary provisions of each such plan. Each Council is authorized to propose any regulations it deems necessary and appropriate to carry out any fishery management plan it prepares.

H.R. 200 requires the Secretary of Commerce, in consultation with other appropriate federal agencies, to review management plans prepared by the Councils for consistency with the bill's provisions and any other applicable law. He must notify the Councils of his approval, disapproval or partial disapproval of such plans. The Secretary is also authorized to prepare fishery management plans if any Council fails to submit a required plan or corrective changes to a disapproved plan in accordance with the bill's provisions. After approving or preparing any fishery management plan, the Secretary is authorized and directed to implement it and to promulgate such regulations as may be necessary for its implementation.



The entire process of approving and implementing plans provides for the consideration of interested parties' views. Plans and proposed implementing regulations must be published in the Federal Register with an opportunity for public comment, the Secretary is authorized to schedule hearings on proposed plans, and any regulations promulgated by the Secretary are subject to judicial review in accordance with existing law.

Title III also contains a limited exception to the principle in the bill that nothing in the legislation shall be construed as extending or diminishing the jurisdiction or authority of any State over fishery resources within its boundaries. The Secretary of Commerce may regulate any fishery within a State's boundaries covered by a fishery management plan if he finds, after an opportunity for a hearing, that such State has taken, or has failed to take, certain actions which adversely affect the carrying out of the plan.

Finally, Title III establishes certain prohibited acts, provides for civil and criminal penalties and civil forfeitures for violations, and authorizes enforcement of the bill's provisions including seizure of any fishing vessel used in violation of the bill. These provisions are to be effective March 1, 1977.

Title IV -- Miscellaneous Provisions -- authorizes the Secretary of Commerce, after consultation with the Secretary of State, to amend any regulations promulgated under the bill to conform to the fishery conservation and management provisions of any comprehensive treaty applicable to the United States resulting from the United Nations Conference on the Law of the Sea. It also authorizes appropriations to the Commerce Secretary to implement the bill. Amounts authorized are \$500,000 for fiscal 1976, \$5 million for the transition quarter, \$25 million for fiscal 1977 and \$30 million for fiscal 1978 (the conference report on H.R. 200 indicates that authorizations for enforcement expenditures will be provided

separately in annual Coast Guard Authorization Acts). Provisions of certain existing laws are also amended to conform them to H.R. 200, and compensation under the Fisherman's Protective Act is expanded to cover seizures of U.S. fishing vessels in waters not recognized by the United States as under foreign fisheries jurisdiction and in certain other circumstances.

H.R. 200 initially passed the House by a vote of 208-101 (1 voting present). The Senate adopted its version of the bill by a 77-19 margin. Subsequently, the House adopted the conference report on H.R. 200 by a vote of 346-52 (2 voting present). No recorded vote was taken in the Senate when it considered the conference report.

A number of agencies commenting on the enrolled bill state that enactment of H.R. 200 raises serious problems. Generally, they believe it could be harmful to the objectives we seek through negotiation in the United Nations Law of the Sea Conference, not only with regard to fisheries management and conservation but also in areas such as use of the high seas and passage through straits (Defense, Transportation), marine environment (Environmental Protection Agency), and marine Scientific research (National Science Foundation). State and Justice express concern that the bill would lead to incidents at sea and other disputes with foreign nations fishing off our coasts -- especially Japan and the Soviet Union -- with possible ramifications going beyond fisheries and the law of the seas.

Specifically, agency comments cite the following major objections to H.R. 200:

- The bill's assertion of U.S. jurisdiction over anadromous species beyond 200 miles is clearly inconsistent with the general practice of nations (no other nation

asserts such jurisdiction) and would be contrary to international law (State, Justice, National Science Foundation).

- The requirement that foreign fishing vessels must obtain permits issued by the United States, even if fishing pursuant to an existing international fishery agreement as permitted under the bill, violates the rights accorded nations parties to such agreements (State, Justice).
- The bill provides insufficient flexibility to make a transition to extended U.S. jurisdiction, establishing unrealistic time limits for negotiating new governing international fishery agreements as required (State, Justice).
- The prohibition of foreign fish imports in certain circumstances, as required under the bill, would violate U.S. trade obligations under the General Agreement on Tariffs and Trade (GATT) and would invite retaliation by our trading partners (State, STR, Treasury, National Science Foundation).
- Including imprisonment of foreign fishermen as a penalty for certain violations of the bill will encourage other nations to take such action against our distant-water fishermen and could undermine our efforts to prohibit imprisonment in a Law of the Sea Treaty (State).

In addition, State believes the provisions in the bill directing the Secretary of State to undertake specific negotiations infringes on the President's constitutional authority for the conduct of foreign affairs. We note, however, that Justice does not object to the bill on this ground.

For some or all of the above reasons, State, Justice, Defense, and certain other agencies recommend that you disapprove H.R. 200. Nevertheless, State and Justice believe that with certain modifications,

some of the adverse consequences of the bill could be minimized while preserving its essential thrust and purpose. Accordingly, both departments recommend issuance of a veto message outlining the changes needed to correct the above deficiencies and indicating your willingness to sign such a revised bill. State's enrolled bill letter includes a proposed veto message along these lines.

Commerce and Treasury, in their enrolled bill letters supporting enactment of H.R. 200, state their belief that the bill will provide a suitable framework within which the United States can initiate conservation measures necessary to protect its marine fisheries resources. The Council on International Economic Policy joins those two departments in pointing out that the bill is consistent in many respects with the fishery provisions of the Single Negotiating Text developed at the 1975 session of the Law of the Sea Conference. In this connection, the conference report on H.R. 200, citing provisions such as the delayed effective date for extending exclusive U.S. fisheries jurisdiction and enforcement and the authorization to conform regulations issued under the bill to terms of an international treaty applicable to the United States, states that, "The legislation is not intended to interfere with or preempt ... negotiations at the third session of the Third United Nations Law of the Sea Conference."

While the Office of Management and Budget agrees that the bill contains undesirable provisions and recognizes the potential problems they could cause, we believe that their adverse effects can be mitigated by careful and effective administration and enforcement. In addition, as previously mentioned, the bill generally reflects the developing consensus within the Law of the Sea negotiations on fisheries conservation and management, and concern over the impact of the bill on overall U.S. objectives in these negotiations is speculative at this time. In view of the strong congressional support for this measure,



it is likely that disapproval of H.R. 200, even if premised on a need for corrective changes, would be overridden. Failure to sustain a veto in such circumstances could decrease the chances for favorable congressional consideration of corrective changes if it is determined that some are necessary as steps are taken to implement the bill. Accordingly, we recommend that you approve H.R. 200, keeping open the possibility of seeking amendments at a later time.

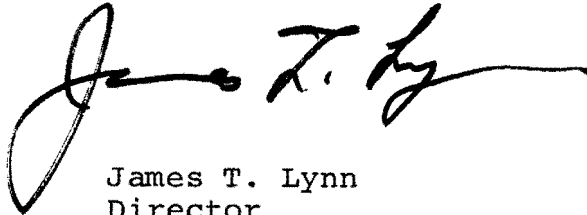
The National Security Council believes that in the event you approve this legislation, you should issue a signing statement to point out the deficiencies in the bill and the risks involved with enforcement and to recommend that Congress address these problems in future legislation. While opposing enactment of the bill, the National Science Foundation also recommends a signing statement in the event of approval to address certain of its concerns over marine scientific research.

In our view, no useful purpose would be served by a signing statement along the lines proposed by these agencies. Furthermore, as indicated above, we believe it would be premature to forecast the need for amendments in a signing statement until the executive branch has had an opportunity to operate under the bill and to determine the amendments, if any, that may be necessary.

The costs of implementing this legislation are not yet certain. In its enrolled bill letter, Commerce estimates its costs will be close to the amounts authorized in the bill. Commerce further points out that permit fees collected under the bill will partially offset implementation costs and expects the amounts collected to be substantial. Preliminary estimates of the Department of Transportation are that costs for enforcement under the bill through 1978 would exceed, by approximately



\$274 million, amounts requested for the Coast Guard in the 1977 budget and projected for 1978. Clearly, should you approve H.R. 200, we will need to review associated costs carefully before recommending any budget amendments.

A handwritten signature in black ink, appearing to read "James T. Lynn". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James T. Lynn
Director

Enclosure




B



MEMORANDUM

THE WHITE HOUSE
WASHINGTONAPR 9 1 56 PM '76
April 9, 1976~~CONFIDENTIAL~~

MEMORANDUM FOR JAMES LYNN

FROM: Brent Scowcroft 

SUBJECT: Secretary of State's Comments and
Recommendations on 200-Mile
Fisheries Legislation

I am forwarding for your information (at Tab A) a copy of the memorandum from the Secretary of State to the President recommending veto of the 200-mile fisheries legislation recently passed by the Congress and sent to the White House.

I am also forwarding (at Tab B) a proposed signing statement, prepared separately by the Department of State, for use in the event that the President decides to approve the fisheries legislation. Because of the many deficiencies identified in this bill, I believe that a signing statement along the lines of the State draft would be useful in focusing attention on problem areas and calling for corrective action in future legislation. If a decision is taken to approve the legislation, we would wish to coordinate with you on this.

~~CONFIDENTIAL~~ (GDS)

DAD, 11/5/85

A

THE SECRETARY OF STATE
WASHINGTON

April 6, 1976

CONFIDENTIAL

MEMORANDUM FOR: THE PRESIDENT

From: Henry A. Kissinger *HK*
Subject: H.R. 200 -- Extension of U.S.
Fisheries Jurisdiction to 200
Miles

H.R. 200, which will extend United States fisheries jurisdiction to 200 miles, has passed the Congress. You have indicated that you will sign this legislation if its contents are "otherwise satisfactory." Unfortunately, they are not. As your foreign policy adviser, I have no choice but to recommend that you veto this legislation. However, I recommend that you make a veto statement outlining the specific changes that would be required in order for you to sign the bill.

We presently have important fisheries relationships with Canada, Japan, the USSR, Poland, the FRG, Mexico, Brazil, Ecuador and Spain. Each of these relationships would undergo profound changes as a result of this legislation. In many cases, we would expect incidents at sea and other disputes as we seize foreign vessels fishing in our zone. Our ability to protect our distant-water fishermen from seizures when fishing in others' zones would be lessened. The legislation is, in concept, inconsistent with international law as heretofore maintained by the United States, and implementation of some specific provisions of the bill will, in our view, place us in violation of international law. The prospect of resulting confrontations particularly with the Soviet Union and Japan, would be a most serious matter with ramifications going beyond fisheries and the Law of the Sea.

DECLASSIFIED
E.O. 12356, Sec. 3.4.

CONFIDENTIAL
GDS

MR 91-25, # 8; State Ltr. 12/20/93
By *lt* NARA, Date 2/17/94

~~CONFIDENTIAL~~

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Specifically, the legislation prohibits foreign fishing in our zone, or with respect to anadromous species of U.S. origin (e.g., salmon) and continental shelf fisheries resources seaward of the zone, after March 1, 1977 unless each vessel has on board a permit issued under the Act. In some cases, the permits could be issued where existing international agreements are in force on that date, although some nations may refuse to accept a permit scheme because it constitutes recognition of our jurisdiction. In other cases, such as the USSR, Japan, and Poland, permits can only be issued under new "governing international fisheries agreements" that recognize our jurisdiction and that must be in force on March 1, 1977 after laying before Congress for 60 legislative days. Given the likely Congressional calendar for the eight months preceding March 1, 1977, these new agreements must be completed by the early summer. This will be impossible in many cases, probably including the USSR (that refused as recently as February, even to discuss principles that look toward an orderly transition to extended jurisdiction until after the Law of the Sea Conference concludes).

There is thus a very real prospect of wholesale seizures of vessels under the Soviet, Japanese and other flags starting next March. The legislation gives us no flexibility to manage the foreign policy consequences of such incidents, except in the context of a multilateral treaty like the Convention on the Northwest Atlantic Fisheries (ICNAF). It will strain our resources severely to undertake the necessary negotiations and arrange for the issuance of permits to over 1500 vessels from over 15 nations, and I am not at all sure we will be able to deliver what the Congress demands by next March.

It is difficult to predict what the reaction will be. The Soviet Union, which fishes off our coasts with several hundred vessels, will have the options of (1) leaving their traditional fishing grounds, (2) fishing despite seizures of the zone.

~~CONFIDENTIAL~~

COI

while reacting diplomatically, or (3) entering a confrontation like the U.K.-Iceland "Cod War" -- unless, contrary to our expectations, they recognize our jurisdiction very soon. Japan, which is heavily dependent on her distant-water fisheries both economically (total value exceeds \$11 billion) and for food, has hinted that she may react by linking other issues, such as trade.

The provisions on anadromous species, such as salmon, will cause special problems. Under the legislation, the United States will board and seize foreign vessels fishing on the high seas for salmon of U.S. origin, even in the absence of an international agreement. This is a clear violation of the Convention on the High Seas, which guarantees freedom of fishing on the high seas as well as the exclusive jurisdiction of the flag State. Japan is the principal nation involved.

Our relations with nations off whose coasts our distant-water fishermen fish will also be strained. Seizures of our vessels are likely to increase because the bill provides special compensation for these fishermen, although we will recognize 200 mile fisheries jurisdiction except for tuna. The bill contemplates embargoes on fish products from nations that seize our vessels under specified circumstances, while we would ourselves take the same actions against foreign fishermen in our zone. The bill also contemplates imprisonment of foreign fishermen, and will therefore make it difficult to resist imprisonment of our fishermen by foreign nations and may undermine our efforts to prohibit such imprisonment in a law of the sea treaty.

The most damaging foreign policy consequences of this measure can be avoided if certain changes are made in the bill. Therefore, I recommend that you veto the measure and, at the same time, issue a statement outlining the specific changes that are needed to gain your signature on a bill, and indicating your hope that a satisfactory bill can be enacted this session. It is difficult to predict whether a veto would be sus-

CONFIDENTIAL

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tained. The majorities in each house were substantial. Nevertheless, it is possible that enough congressmen are unaware of the specific problems that a veto with an explanatory statement can be sustained. A proposed veto statement is attached hereto. It indicates the minimum changes needed if serious harm to our foreign policy is to be avoided, without undermining the thrust and purpose of the legislation.

Attachment:

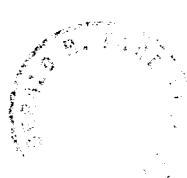
Veto statement.

CONFIDENTIAL

PROPOSED DRAFT VETO STATEMENT

I am today returning without approval H.R. 200, an enrolled bill to extend the exclusive fishery management authority of the United States to 200 miles, and beyond with respect to certain species. I strongly support an extension of our fisheries jurisdiction to 200 miles. I have said I will sign a bill extending fisheries jurisdiction to 200 miles provided that all other provisions are satisfactory. I am eager to sign this session a bill that accomplishes this purpose. It is only because I cannot support certain provisions of H.R. 200 that I must now return it to the Congress for further consideration.

The assumption by the United States of exclusive fisheries jurisdiction over such a broad expanse of ocean space, previously regarded as high seas for fisheries and other purposes, requires the most careful consideration of means calculated to achieve a transition without conflict and confrontation with foreign nations. Our legislation must stand up as a model for responsible action by others. In my view, however, H.R. 200 falls short in a number of important respects.



First, H.R. 200 provides inadequate flexibility to make the transition to extended jurisdiction without unnecessary disputes and possible confrontations with nations that have traditionally fished off our coasts. The bill provides that, in several important cases, vessels of these nations will be seized next March 1 unless a governing international fishery agreement is in force after laying before Congress for 60 days. Given the likely congressional calendar during the eight months preceding March 1, this has the effect of requiring that the new agreements be negotiated and concluded in the early summer.

In certain cases, an agreement may be negotiated, but the 60 day period may not have elapsed by March 1. The bill should authorize provisional application of these agreements during the 60 day period, without prejudice to the Congressional prerogative to prevent the entry into force of the agreement by enactment of a law. In other cases, negotiations may be in progress on March 1, 1977.

The President should be authorized to defer enforce-



ment with respect to a particular nation during such time as he determines that good faith negotiations are proceeding.

The bill also requires all foreign fishing vessels to have permits issued by the United States on board after March 1, 1977 even if the issuance of such permits places the United States in violation of existing agreements. Where vessels are fishing under a multilateral treaty establishing a fisheries commission, the purpose of the permit requirement would be served if the bill permitted the acceptance of registration permits issued pursuant to the terms of such a treaty.

Second, H.R. 200 contemplates unilateral enforcement of a prohibition on foreign fishing for anadromous species, such as salmon, seaward of the 200 mile zone. While such a prohibition is clearly necessary for the conservation of salmon stocks, we can only achieve it effectively under international agreements with affected States. In the absence of agreement, our actions would be considered lawless by others, and resulting disputes can only harm our relations with foreign



nations.

Third, the bill contemplates prohibitions on imports from foreign nations in whose 200 mile zones our distant-water fishermen fish, if the foreign nation seizes our vessels without authorization from the United States or under other specified conditions. Yet the bill requires us to seize foreign vessels fishing in our zone without similar authorization from their governments. This provision should be modified.

Lastly, a number of specific amendments are needed to conform the legislation to positions we are advancing at the Law of the Sea Conference and to avoid restrictions on the President's Constitutional responsibility for international negotiations. I am particularly concerned that the provisions on imprisonment of foreign fishermen will encourage other nations to take such action against our distant-water fishermen.

I do not regard these necessary amendments as altering the essential thrust and purpose of the bill. My difference with the Congress is solely one of the means best calculated to achieve our



common objectives. I look forward to signing a revised bill during this session of the Congress.





B



DRAFT SIGNING STATEMENT

H.R. 200

I am signing today a bill to extend the exclusive fisheries jurisdiction of the United States to 200 miles. This extension of our jurisdiction will enable us to protect and conserve the valuable fisheries stocks off our coasts. It is indeed unfortunate that the slow pace of the international negotiations process has mandated our course of action here today, for the overfishing of stocks off our coasts simply cannot be allowed to continue any longer.

The need for a timely and successful Law of the Sea Conference is even more pressing today than ever before. I have directed our negotiators to make every effort, consistent with our basic interests, to conclude the substantive negotiations this year. The bill I sign today is generally consistent with the consensus emerging at the Conference. It is becoming increasingly apparent that a failure to reach substantive agreement this year will steer the world community toward increasing chaos and disorder respecting competing



use of the oceans. In the absence of a timely treaty, no nation can rest assured that its paramount interest in the oceans will be protected over time.

Some specific aspects of this legislation require comment. I supported this legislation on the condition that the effective date of the legislation would be delayed to give the Law of the Sea Conference adequate time to complete its work and to enable us to effect a transition without conflict and confrontation. But the requirement that new international agreements recognizing our jurisdiction be in force on March 1, 1977 after review by the Congress for 60 legislative days has the practical effect, given the likely congressional calendar during the eight months preceding March 1, of requiring that those agreements be completed early this summer. I am concerned about our ability to meet this schedule and have directed the Department of State to prepare and submit legislation to provide the necessary flexibility. In certain cases, the negotiation of an agreement may be completed by March 1, 1977 but not sufficiently in advance of that date to permit the



running of the 60 day period. The changes which we will propose would allow these agreements to be provisionally applied, without prejudice to the Congress' prerogative by subsequent statutory enactment to prevent the final entry into force of an agreement. In other cases, negotiations may be in progress on March 1, 1977. The proposed legislation would authorize the President to defer enforcement with respect to a particular nation if he determines that good faith negotiations are proceeding in a timely manner.

In addition, I am concerned about the provisions of the new law asserting exclusive fisheries management authority over anadromous species of US origin throughout their migratory range. To the extent that the United States undertakes unilateral enforcement of the prohibition on foreign fishing on the high seas seaward of the 200 mile zone, there is an especially serious risk of international conflict. The changes the Administration will propose will seek to preserve the objective of the new law while limiting enforcement seaward of the zone to cases covered by international agreements.

The task of issuing permits to over a thousand vessels and negotiating new agreements with over 15 nations will require the concerned Executive Branch departments to devote substantial resources in excess of those presently allocated to international fisheries affairs. The Departments of State, Commerce, and Transportation must do their best to implement the Act fully. Since available resources are finite, however, it is possible that full implementation may take some time and we will have to set priorities. Surely we would not wish to see the United States engaged in international disputes because of an absence of practical flexibility.

Section 203 requires special comment. This section directs the Secretary of State to negotiate international agreements under specified circumstances. I regard this section as an expression of the Congress' view that certain negotiations ought to be undertaken. This does not in any way impair the constitutional authority of the President to decide with whom, when and on what subjects international negotiations will be undertaken.



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STATEMENT BY THE PRESIDENT

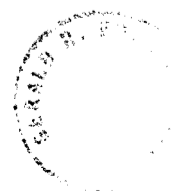
I am today signing a bill which provides a comprehensive domestic and international program for the conservation and management of our fisheries.

The extension of our jurisdiction to 200 miles will enable us to protect and conserve the valuable fisheries off our coasts. It is indeed unfortunate that the slow pace of the negotiations of the United Nations Law of the Sea Conference has mandated our course of action here today. However, the foreign overfishing off our coasts cannot be allowed to continue without resolution.

The need for a timely and successful Law of the Sea Conference is even more pressing today than ever before. I have directed our negotiators to make every effort, consistent with our basic interests, to conclude the substantive negotiations this year. The bill I sign today is generally consistent with the consensus emerging at the Conference. It is increasingly apparent that a failure to reach substantive agreement this year will move the world community inevitably toward disorder respecting competing use of the oceans. In the absence of a timely treaty, no nation can be assured that its paramount interest in the oceans will be protected.

Some specific aspects of this legislation require comment. I supported this legislation on the condition that the effective date of the legislation would be delayed so that the Law of the Sea Conference could complete its work and to permit sufficient time for a proper transition.

The tasks of continuing our negotiating efforts at the Law of the Sea Conference and at the same time establishing new fishery plans, issuing hundreds of new fishing permits



and negotiating specific fishery agreements with foreign governments will require substantial resources in excess of those presently allocated to international fisheries affairs. The Departments of State, Commerce, and Transportation must do their best to implement the Act fully. Since available resources are finite, however, it is possible that full implementation may take more time than is provided in the Act.

I am concerned about our ability to fulfill the tasks in the time and manner provided in the Act. I am particularly anxious that no action be taken which would compromise our commitment to protect the freedom of navigation and the welfare of our distant water fisheries. Surely we would not wish to see the United States engaged in international disputes because of an absence of needed flexibility.

Additionally, I am concerned about four specific problem areas which are raised by this legislation:

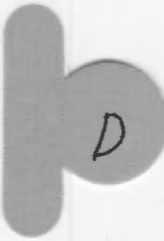
First, absent affirmative action, the subject bill could raise serious impediments for the United States in meeting its obligations under existing treaty and agreement obligations;

Second, the bill contemplates unilateral enforcement of a prohibition on foreign fishing for native anadromous species, such as salmon, seaward of the 200-mile zone. Enforcement of such a provision, absent bilateral or multilateral agreement, would be contrary to the sound precepts of international jurisprudence;

Third, the enforcement provisions of H.R. 200 dealing with the seizure of unauthorized fishing vessels, lack adequate assurances of reciprocity in keeping with the tenets of international law; and

Fourth, the measure purports to encroach upon the exclusive province of the Executive relative to matters under international negotiations.

Although these matters are of major importance, I am hopeful they can be resolved by responsible administrative action and, if necessary, by curative legislation. Accordingly, I am instructing the Secretary of State to lead Administration efforts toward their effective resolution.



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TO THE HOUSE OF REPRESENTATIVES:

I am today returning without approval H.R. 200, an enrolled bill to extend the exclusive fishery management authority of the United States to 200 miles, and beyond with respect to certain species. I strongly support an extension of our fisheries jurisdiction to 200 miles. I have said I will sign a bill extending fisheries jurisdiction to 200 miles provided that all other provisions are satisfactory. I am eager to sign this session a bill that accomplishes this purpose. It is only because I cannot support certain provisions of H.R. 200 that I must now return it to the Congress for further consideration.

The assumption by the United States of exclusive fisheries jurisdiction over such a broad expanse of ocean space, previously regarded as high seas for fisheries and other purposes, requires the most careful consideration of means calculated to achieve a transition without conflict and confrontation with foreign nations. Our legislation must stand up as a model for responsible action by others. In my view H.R. 200 falls short in a number of important respects.

First, H.R. 200 provides inadequate flexibility to make the transition to extended jurisdiction without unnecessary disputes and possible confrontations with nations that have traditionally fished off our coasts. The bill provides that, in several important cases, vessels of these nations will be seized next March 1 unless a governing international fishery agreement is in force after laying before Congress for 60 days. Given the likely Congressional calendar during the eight months preceding March 1, this has the effect of requiring that the new agreements be negotiated and concluded in the early summer.

In certain cases, an agreement may be negotiated, but the 60-day period may not have elapsed by March 1. The bill should authorize provisional application of these agreements during the 60-day period, without prejudice to the Congressional prerogative of preventing the entry into force of the agreement by subsequent statutory enactment. In other cases, negotiations may be in progress on March 1, 1977. The President should be authorized to defer enforcement with respect to a particular nation during such time as he determines that good faith negotiations are proceeding.

The bill also requires all foreign fishing vessels to have permits issued by the United States on board after March 1, 1977 even if the issuance of such permits places the United States in violation of existing international agreements. Where vessels are fishing under a multilateral treaty establishing a fisheries commission, the purpose of the permit requirement would be served if the bill permitted the acceptance of registration permits issued pursuant to the terms of such a treaty.

Second, H.R. 200 contemplates unilateral enforcement of a prohibition on foreign fishing for anadromous species, such as salmon, seaward of the 200-mile zone. While such a prohibition is clearly necessary for the conservation of salmon stocks, we can only achieve it effectively under international agreements with affected States. In the absence of agreement, our actions would be considered lawless by others, and resulting disputes can only harm our relations with foreign nations.

Third, the bill contemplates prohibitions on imports from foreign nations in whose 200-mile zones our distant-water fishermen fish, if the foreign nation seizes our vessels without authorization from the United States or under other specified

conditions. Yet the bill requires us to seize foreign vessels fishing in our zone without similar authorization from their governments. This provision should be modified.

In addition to these defects in the bill, a number of specific amendments are needed to conform the legislation to positions we are advancing at the Law of the Sea Conference and to avoid restrictions on the President's Constitutional responsibility for international negotiations. I am particularly concerned, for example, that the provisions on imprisonment of foreign fishermen will encourage other nations to take such action against our distant-water fishermen.

I do not regard these necessary amendments as altering the essential thrust and purpose of the bill. My difference with the Congress is solely one of the means best calculated to achieve our common objectives. I look forward to signing a revised bill during this session of the Congress.

THE WHITE HOUSE,

