OCEANOGRAPHY MISCELLANEOUS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON OCEANOGRAPHY

AND THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

ON

LAW OF THE SEA CONFERENCE BRIEFING

SEPTEMBER 25, 1974

AUTHORIZATION INCREASE—GRANT ALLOCATION FLEXIBILITY

H.R. 16215

SEPTEMBER 18, 1974

FEDERAL-STATE RELATIONSHIPS IN COASTAL ZONE

H.R. 16411, H.R. 17508, H.R. 17517, H.R. 17571, H. Con. Res. 687

DECEMBER 10, 11, 1974

Serial No. 93–42

Printed for the use of the Committee on Merchant Marine and Fisheries

U.S. GOVERNMENT PRINTING OFFICE

43-881 WASHINGTON : 1975

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LAW OF THE SEA CONFERENCE BRIEFING

WEDNESDAY, SEPTEMBER 25, 1974

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The committee met, pursuant to call, at 10:05 a.m., in room 1334, Longworth Office Building, Hon. Leonor K. Sullivan (Chairman of the Committee), presiding.

The CHAIRMAN. Good morning. The committee will come to order.

The committee meeting this morning is for a two-fold purpose. One purpose is to have the representatives of the State Department brief the committee on what action has been or will be taken to fill the positions in the new Bureau of Oceans and International Environmental and Scientific Affairs which was created pursuant to a reorganization contained in Public Law 93–126.

Since passage of that law Ambassador McKernan, formerly the Special Assistant to the Secretary for Fisheries and Wildlife has left the department and as have several other fisheries experts and in addition, there are presently a number of U.S. vacancies on various International Fisheries Commissions.

Because of the present state of the U.S. fisheries, the vast number of problems existing in this area and the importance of the Law of the Sea negotiations these vacancies continue to be a matter of concern to the members of this committee and we are anxious to learn of the Department's plans to fill them with properly qualified persons. To discuss this matter with us we will hear first from Ambassador L. Dean Brown, Deputy Under Secretary for Management, Department of State.

The second purpose of our meeting today is to receive a briefing on the results of the Law of the Sea Conference held in Caracas from June 20 through August 29, 1974.

The results of this second session of the Law of the Sea Conference are of primary concern to this committee in view of the fact that bills pending before the committee are directly related to matter which are also before the Congress.

Ambassador John R. Stevenson, Special Representative of the President for the Law of the Sea Conference and Chairman of the U.S. Delegation to the Law of the Sea Conference will discuss with us the activities in Caracas.

We will also hear from Prof. John Norton Moore, Chairman of the National Security Council Interagency Task Force on the Law of the Sea and Vice Chairman of the U.S. Delegation and following the testimony of Ambassador Stevenson and Professor Moore committee members will be recognized for questions.

It is possible that thereafter it may be desirable to go into executive session on matters pending before the committee. The decision on that matter can be taken later.

Ambassador Brown, we will be happy to have your testimony first.

STATEMENT OF AMBASSADOR L. DEAN BROWN, DEPUTY UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF STATE

Ambassador BROWN. Good morning.

I have with me Arthur E. Pardee, Jr., who will be the Executive Director of the new bureau and Mr. William Sullivan, Jr., who is one of our fisheries experts.

Public Law 93–126 authorized the establishment of a Bureau of Ocean Affairs and International Environmental and Scientific Affairs.

It is our expectation that this bureau will be fully established in the State Department in the beginning of next month, probably in the first week of October.

We had hoped, Madam Chairman, to be able to name an Assistant Secretary for this important bureau in the very near future. However, the candidate that we had selected has just withdrawn, Doctor William Nierenberg.

We will nevertheless plan to establish the new bureau with Doctor Clingan as the Acting Assistant Secretary of State as I say in early October.

Doctor Clingan will serve permanently in the new bureau as the Deputy Assistant Secretary for Oceans and Fisheries. I think most of the members know Doctor Clingan. He is a highly competent oceans expert who is now serving as the acting dean of the law school at the University of Miami and is codirector of the oceans law division of that university.

The CHAIRMAN. Ambassador, before you continue and for the record would you identify the two gentlemen who accompany you?

Ambassador BROWN. Mr. Pardee, the Executive Director of the new bureau and Mr. Sullivan of the Fisheries Division of the new bureau.

The CHAIRMAN. Thank you.

Ambassador BROWN. It is our plan at the present time, Madam Chairman, to constitute the new bureau from personnel that we have presently in the State Department in various divisions.

We will have a staff of 78 persons in the new bureau, and 12 of these will be concerned with fisheries.

We will have all personnel on board in early October. The last vacancy will be filled when we bring back our fisheries attaché from Tokyo and he joins the staff.

I would be glad to answer any questions that you or other members might have on the new bureau.

The CHAIRMAN. Does that complete your oral testimony?

Ambassador BROWN. Yes.

The CHAIRMAN. All right, we do have a few questions.

When Ambassador McKernan's replacement comes on board will he have ambassadorial rank?

Ambassador BROWN. We will so recommend to the Senate.

The CHAIRMAN. Pardon?

Ambassador BROWN. We will so recommend to the Senate that he be given ambassadorial rank.

The CHAIRMAN. Will John Norton Moore as Chairman of the National Security Council Interagency Task Force on the Law of the Sea have ambassadorial rank for the remainder of the Law of the Sea Conference?

Ambassador BROWN. You will have to ask John Moore that.

The CHAIRMAN. I think he is waiting as we are to find out what is happening. Do you know?

Ambassador BROWN. No, I do not know.

The CHAIRMAN. Do you know if consideration has been given to the idea?

Ambassador BROWN. I do not know, Madam Chairman.

The CHAIRMAN. Do you think it would strengthen our hand at the conference for him to have this rank?

Ambassador BROWN. May I address that in a letter to the committee, Madam Chairman?

The CHAIRMAN. If you will, please.

I understand that staffing is a big problem at this time; that many of the secretaries are having to work such long hours that it will take two or three full-time secretaries to do the work that is being done on overtime. Is this true?

Ambassador BROWN. I understand they are very hard pressed.

The CHAIRMAN. How much professional and secretarial staff does this office have at this time?

Ambassador BROWN. He has eight at the present time.

The CHAIRMAN. Has your Inspector General recommended more staffing for this office and if so, how much more?

Ambassador BROWN. Yes, he has recommended four people; two officers, and two secretaries.

The CHAIRMAN. What are your plans with respect to obtaining more staff?

Ambassador BROWN. I have a major problem right now, Madam Chairman, that is in the department because we are being assessed as all other agencies with a personnel reduction and I am in the process now of trying to figure out how I can reduce personnel and then meet the urgent needs throughout the department.

I have no answer as yet on that because it is a complicated and difficult problem for us.

The CHAIRMAN. In August of this year there were six U.S. vacancies on various International Fisheries Commissions.

What, if anything, has been done about filling these positions?

Ambassador BROWN. We have been in the process of filling them. We filled one yesterday. We hope to have particularly on the North Pacific Commission, a full staffing pattern for that in the next few weeks of the meetings that will be taking place in November.

The CHAIRMAN. You know, I am curious. Who thought up the title of this new bureau?

Ambassador BROWN. I guess I did.

The CHAIRMAN. Shame on you! You have already envisioned that we are going to lose Oceanography in this committee.

Ambassador BROWN. Not at all.

The CHAIRMAN. Because you have passed it under this title.

Ambassador BROWN. I am sorry?

The CHAIRMAN. You have passed it to another committee with this title.

Ambassador BROWN. Have I?

The CHAIRMAN. Environmental and Scientific Affairs. If the so-called reforms are made in the Congress this year, a new committee is going to be created, Energy and the Environment.

Ambassador BROWN. Yes.

The CHAIRMAN. And Oceanography will be fragmented to the point where several committees are going to have it instead of our committee.

We have not lost the fight yet, so I hope you might be thinking up another title.

We have a great deal of correspondence that we have had with the Department of State on this matter and at this time without objection we will make it part of the record, to be placed in the record at this point.

[The correspondence referred to follows:]

DEPARTMENT OF STATE,
Washington, D.C., August 20, 1974.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Fisheries and Wildlife Conservation and the Environment, Committee on Merchant Marine and Fisheries, House of Representatives.

DEAR MR. CHAIRMAN: Secretary Kissinger has asked me to thank you for your inquiry of August 1 concerning the filling of the positions of Assistant Secretary and Deputy Assistant Secretaries for the new Bureau of Oceans and International Environment and Scientific Affairs.

We are, of course, very much aware of your great interest in this question and the expressed interest of your Committee and of the Congress in general. I had hoped to be able to inform you sometime ago of these nominations. We are very close to completing the selection and will be able to announce these nominations in the immediate future. They will be, as you already know, highly qualified people.

I want to reassure you that the Secretary is deeply interested in the complex, vital fisheries questions to which you refer. I would add that we recognize and value your own outstanding work in this field over the years.

Cordially,

LINWOOD HOLTON,
Assistant Secretary
for Congressional Relations.

AUGUST 1, 1974.

Hon. HENRY A. KISSINGER,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: On December 18, 1973, an again on February 1, 1974, I wrote to you, along with the Honorable Leonor K. Sullivan, Chairman of this Committee, regarding the implementation of Public Law 93–126 as it would relate to reassigning the duties previously performed by your Special Assistant for Fisheries and Wildlife. The Assistant Secretary for Congressional Relations responded to both of these letters on your behalf and assured us that there was no intention to downgrade the problems related to international fisheries, that the new Bureau of Oceans and International Environmental and Scientific Affairs would be headed by an Assistant Secretary and that each of the three subject area divisions under that Bureau would be headed by a Deputy Assistant Secretary.

To date, neither of these positions has been filled. Further, since the first of this year, Ambassador McKernan, former Special Assistant to the Secretary for Fisheries and Wildlife, and several other persons with fisheries expertise have left the Department. In addition, as was pointed out by Chairman Sullivan and other Members of this Committee in their letter to you of June 21, there presently exist some six U.S. vacancies on various international fisheries commissions. A copy of the June 21 letter, as yet unanswered, is enclosed for your information.

Mr. Secretary, this is a most distressing situation, given the present state of the U.S. fisheries, the vast number of problems existing in this area which cry out for solution, and the fact that this country is presently engaged in international negotiations in Caracas which may well determine its future rights and responsibilities with respect to the World's seas.

We are well aware of your responsibilities in other areas—many of them critical—but this merely heightens the need for competent and knowledgeable persons to fill these vacancies before our problems in this area also reach crisis proportions.

Because we believe that this situation, if it is permiteed to continue, will result in irreparable damage to the United States in areas for which we have primary responsibility within the Congress, my Subcommittee on Fisheries and Wildlife Conservation and the Environment has scheduled oversight hearings on this matter for 10:00 a.m. on Monday, August 12, 1974, in Room 1334 of the Longworth House Office Building. Accordingly, we hereby request that you or your representative appear before the Subcommittee at that time to advise the Members what action your Department is taking to assure that these vacancies are filled by appropriately qualified persons without any further delay.

Your immediate response to this request will be appreciated.

Sincerely,

JOHN D. DINGELL,
Chairman, Subcommittee on Fisheries and Wildlife Conservation and the Environment.

Enclosure.

DEPARTMENT OF STATE,
Washington, D.C. August 16, 1974.

Hon. LEONOR K. SULLIVAN,
Chairman, Merchant Marine and Fisheries Committee,
House of Representatives.

DEAR MRS. SULLIVAN: You will recall that my Deputy Kempton Jenkins discussed with you, shortly after we received your letter of June 21, the prospects for filling the position of Assistant Secretary and Deputy Assistant Secretaries for the new Bureau of Oceans and International Environment and Scientific Affairs.

We have, of course, long been appreciative of your personal profound interest in this question, and the interest of the members of your Committee. We had hoped to be able to inform you sometime ago of these nominations. Unfortunately, the selection and approval of the nominations has still not been quite completed. We are, however, very close to completion, and we will be announcing these nominations in the immediate future.

I wish to reassure you that the Secretary is deeply interested in the complex, vital fisheries questions to which you refer, and I would add that we recognize and value your own outstanding work in this field over the years. You will be hearing from us shortly.

Sincerely yours,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
ROOM 1334, LONGWORTH HOUSE OFFICE BUILDING,
Washington, D.C., June 21, 1974.

Hon. HENRY A. KISSINGER,
Secretary of State,
Department of State,
Washington, D.C.

MY DEAR MR. SECRETARY: As you know, this is a critical time for the United States fishing industry. Congress is moving ahead with plans to unilaterally extend U.S. fisheries jurisdiction and establish a national management program for the contiguous fisheries zone. The international fisheries commissions are engaged in negotiations which may well determine whether some fish stocks will avoid destruction, and the International Law of the Sea Conference continues to hold great potential for the United States fishing industry.

In these times which could well be pivotal for the entire fishing industry, it is especially important to have strong management and direction from the Executive Branch. Currently there are vacancies in the key position of Special Assistant to the Secretary for Fisheries and Wildlife, in three positions on the International North Pacific Fisheries Commission, in two positions on the Northwest Atlantic Fisheries Commission, and in a position on the International Salmon Commission. With these roles unfilled, the effective leadership that is needed so badly will be difficult to obtain, and the Administration's commitment to a strong fisheries program will be questioned.

We understand the great demands on your time from other areas and appreciate the results therefrom. However, your own demanding schedule is even greater reason to get highly-qualified people selected to handle areas that you have not been able to give your personal attention. Consequently, we urge that the vacancies listed above be filled as quickly as possible.

Sincerely,

LEONOR K. SULLIVAN,
Chairman, Merchant Marine and Fisheries Committee.
FRANK M. CLARK,
Chairman, Merchant Marine Subcommittee.
THOMAS N. DOWNING,
Chairman, Oceanographic Subcommittee.
MARIO BIAGGI,
Member of Congress.
GLENN M. ANDERSON,
Member of Congress.
PETER N. KYROS,
Member of Congress.
GERRY E. STUDDS,
Member of Congress.
DAVID R. BOWEN,
Member of Congress.
JAMES R. GROVER,
Ranking Minority Member, Merchant Marine and Fisheries.
CHARLES A. MOSHER,
Ranking Minority Member, Oceanographic Subcommittee.
PAUL N. MCCLOSKEY, JR.,
Member of Congress.
EDWIN B. FORSYTHE,
Member of Congress.
WILLIAM S. COHEN,
Member of Congress.
DAVID C. TREEN,
Member of Congress.
DON YOUNG,
Member of Congress.
ROBERT E. BAUMAN,
Member of Congress.
ROBERT J. LAGOMARSINO,
Member of Congress.
JOEL PRITCHARD,
Member of Congress.

DEPARTMENT OF STATE,
Washington, D.C., April 3, 1974.

Hon. LEONOR K. SULLIVAN,
Subcommittee on Fisheries and Wildlife Conservation and the Environment, Committee on Merchant Marine and Fisheries, House of Representatives.

DEAR MRS. CHAIRMAN: The Secretary has asked me to reply to your letter of February 1, 1974 also signed by Chairman Dingell, about the implementation of Public Law 93-126 as it would relate to reassigning the duties now performed by the Special Assistant to the Secretary of State for Fisheries and Wildlife.

As we wrote in our earlier reply to you, it is certainly not our intent to downgrade oceans affairs and the problems related to international fisheries. Our studies of how best to organize the new bureau have taken into account, among other things, how best to meet the special needs of such interested groups as union and industry organizations associated with the fishing industry, and our decision takes their views into full cognizance.

The bureau will have primary responsibility for contributing foreign policy and foreign relations considerations to the development of a comprehensive and coherent United States Policy in the area where it will be assigned fundamental responsibility. The plans for organizing the new bureau do include dividing it into three areas—oceans and fisheries, environment, and science and technology and placing a Deputy Assistant Secretary at the head of each area.

If there is any other way in which we can be of assistance to you, please let us know.

With kindest regards.

Sincerely,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

FEBRUARY 1, 1974.

Hon. HENRY A. KISSINGER,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: This will acknowledge a letter on your behalf, dated January 16, 1974, from Mr. Marshall Wright, Assistant Secretary for Congressional Relations, concerning your implementation of Public Law 92–126 as it would relate to reassigning the duties now performed by the Special Assistant to the Secretary of State for Fish and Wildlife. A copy of the complete correspondence is enclosed, for your information.

We note in Mr. Wright's letter that it is not your intent to downgrade the matters for which the new Assistant Secretary will be responsible. However, you do not explain how you plan to accomplish your purpose and we would appreciate your advising us, in detail, as to how our concerns, as expressed in our letter of December 18, 1973, will be satisfied.

Sincerely,

LEONOR K. (MRS. JOHN B.) SULLIVAN,
Chairman.

Enclosures.

DEPARTMENT OF STATE,
Washington, D.C., January 16, 1974.

Hon. LEONOR K. SULLIVAN,
Subcommittee on Fisheries and Wildlife Conservation and the Environment, Committee on Merchant Marine and Fisheries, House of Representatives

DEAR MRS. CHAIRMAN: The Secretary has asked me to thank you for your letter of December 10, 1973 also signed by Chairman Dingell, about the implementation of P.L. 93–126 in the State Department.

Your letter expresses concern that the reorganization called for by this legislation might downgrade the importance of our fisheries. Specific reference is made to any action which would eliminate or weaken the position of Special Assistant to the Secretary for Fisheries and Wildlife—or that would eliminate his title of Ambassador during negotiations.

Our plans for implementing the reorganization provision are now being drawn. Although we did not seek this legislation, we do look on it as a positive opportunity to bring coherence, and thus greater attention, to our handling of the growing problems of environment, oceans, and science and technology. It is certainly not our intent to downgrade any of these matters for which the new Assistant Secretary will be responsible. We will carefully consider the useful comments contained in your letter as we finalize our implementation plans.

If there is any other way in which we might be of assistance to you, please let me know.

Sincerely,

MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

Enclosure.

DECEMBER 18, 1973.

Hon. HENRY A. KISSINGER,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: It is our understanding that, pursuant to Public Law 93–126, plans are underway to reassign the duties now performed by the Special Assistant to the Secretary of State for Fish and Wildlife.

As you are aware, our Committee on Merchant Marine and Fisheries has jurisdiction over fisheries and wildlife, including research, restoration, refuges, and conservation. This Committee, especially through its Subcommittee on Fisheries and Wildlife Conservation and the Environment, has over the years established an excellent working relationship with your Special Assistant for Fish and Wildlife, Ambassador Donald F. McKernan. We recently learned of Ambassador McKernan's plans to retire and we want you to know that this dedicated and most capable public servant will be greatly missed.

It is our further understanding that under the reorganization plan the responsibilities so ably carried out by Ambassador McKernan will fall under the jurisdiction of the newly created Bureau of Oceans and International Environment and Scientific Affairs headed by an Assistant Secretary. While this new arrangement may appear to be sound in principle, we are greatly concerned that it will result in fisheries and wildlife matters, in general, being considerably downgraded.

In the past, Ambassador McKernan, as your Special Assistant, has had direct access to you and your office and he has been aided in his dealings with foreign nations by his ambassadorial rank. Under the proposed reorganization plan, we are fearful that Ambassador McKernan's successor will not only have to go through two or more layers of rank before reaching you, but will also be hampered in his international dealings by the lack of ambassadorial status.

Representatives of national fisheries organizations are also deeply concerned in this regard, and we are enclosing a sampling of their letters to us for your information.

As you are well aware, the United States is turning more and more to the sea for its protein and other resources. Foreign nations are having to do likewise to an even greater extent. Negotiations in fisheries matters have been on the increase in recent years and this trend is expected to continue in the future. For example, the United Nations Law of the Sea Conference has finally materialized and fisheries jurisdiction is high on its agenda of urgent matters. Your Special Assistant for Fish and Wildlife has played a vital role in developing the United States' position on this item and he has done an outstanding job of representing our interest at the various international meetings and negotiations. This is equally true in the area of international wildlife protection.

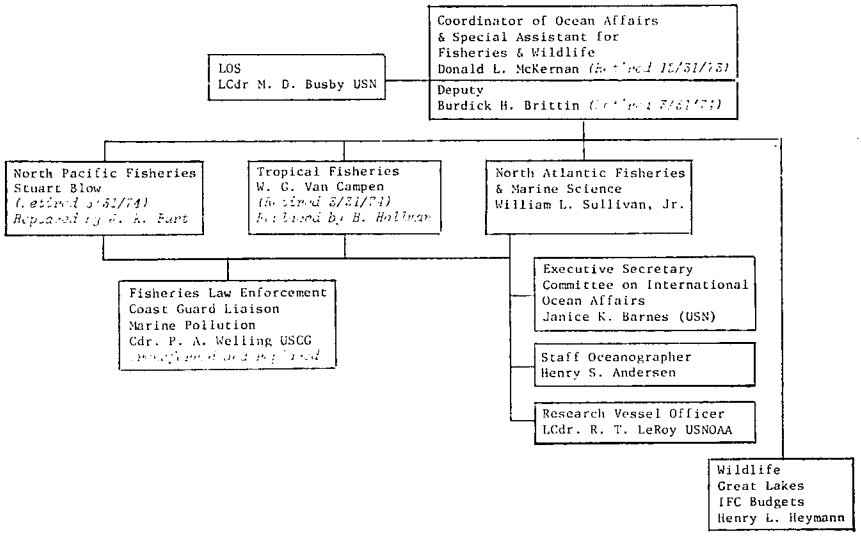
If we expect to give the fisheries and wildlife resources of the United States the protection to which they are entitled, we think it is imperative that the person charged with these responsibilities have direct access to you and retain ambassadorial rank. Failure to provide this office with the rank and authority necessary to the effective performance of its duties, will be most detrimental to the areas concerned and an already beleaguered group—the U.S. fishing industry—in particular, will suffer immeasurable harm.

We would greatly appreciate your taking our views into consideration in the course of finalizing your reorganization plans and would appreciate being advised of your decision in this regard.

Sincerely,

LEONOR K. (MRS. JOHN B.) SULLIVAN.
Chairman.

Enclosures.



DEPARTMENT OF STATE,
Washington, D.C., September 5, 1974.

Hon. WARREN G. MAGNUSON,
Senate Commerce Committee, U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: In response to your recent inquiry concerning enforcement procedures in connection with continental shelf fishery resources, I

am pleased to advise you that foreign governments whose vessels fish above the continental shelf of the United States are being notified of the following new guidelines for the enforcement of our rights to continental shelf fishery resources.

"1. The taking of continental shelf fishery resources from the United States continental shelf will result in the arrest and seizure of any vessel taking such resources, except as provided by the United States in bilateral agreements. For the purpose of determining whether such a taking has occurred, vessels may be boarded when engaging in either of the following acts:

(a) Fishing above the continental shelf of the United States with gear which is designed specifically to catch continental shelf fishery resources; or

(b) Fishing above the continental shelf of the United States with bottom gear which can be expected to result in the catch of continental shelf fishery resources except where the procedures used are designed to reduce and control such incidental catch pursuant to an agreement with the United States.

"2. In those instances where the taking of continental shelf fishery resources does not result in a substantial catch and such taking does not appear to be deliberate or repeated, a warning will normally be given. In any event, fisherman are expected to return to the sea immediately any continental shelf fishery resources which may be taken incidentally in the course of directed fisheries for other species. Fishermen who encounter concentrations of continental shelf fishery resources in the course of their fishing operations should take immediate steps to avoid such concentrations in future tows.

"3. To facilitate the transition in fishing procedures required by these procedures, U.S. enforcement officers will act with discretion during a short period to allow fishermen operating in the region to become familiar with these procedures.

"4. The boarding and where appropriate the arrest of any vessel pursuant to these procedures shall be in strict conformity with paragraph 1 above.

"5. The effective date of these new procedures will be December 5, 1974."

These guidelines should substantially enhance our protection efforts and help conserve our valuable resources. The practical effect of the change in procedure contemplated by paragraph 1(b) is to require the negotiation of bilateral agreements with all nations fishing over our continental shelf with bottom gear which can be expected to result in the catch of continental shelf fishery resources. These agreements would set forth appropriate procedures to ensure the fullest protection of our resources.

I hope that you will conclude, as I have, that this effort will materially assist in providing added protection to our continental shelf fishery resources.

Sincerely,

JOHN NORTON MOORE,
Chairman, National Security Council,
Interagency Task Force on the Law of the Sea, and
Deputy Special Representative of the
President for the Law of the Sea Conference.

The CHAIRMAN. For the moment that is all the questions that I have.

Mr. de la Garza?

Mr. DE LA GARZA. No questions.

The CHAIRMAN. Mr. Mosher?

Mr. MOSHER. Madam Chairman, I am sorry to say that I have just arrived and have not been in on this conversation, but I have been told by staff that Tom Clingan will be Acting Assistant Secretary.

Ambassador BROWN. That is correct, sir.

Mr. MOSHER. I think that is great news.

That is all, Madam Chairman.

The CHAIRMAN. Mr. Ginn?

Mr. GINN. I have no questions.

The CHAIRMAN. Mr. Grover?

Mr. GROVER. No questions.

The CHAIRMAN. Mr. Studds?

Mr. STUDDS. No questions.

The CHAIRMAN. May I ask if anyone has any questions so I do not have to go down the roll?

Apparently there are no further questions. However, we would appreciate it if you would wait around as there might be questions as the other members arrive.

Our next witness will be Ambassador John R. Stevenson, Special Representative of the President at the Law of the Sea Conference.

STATEMENT OF AMBASSADOR JOHN R. STEVENSON, SPECIAL REPRESENTATIVE OF THE PRESIDENT FOR THE LAW OF THE SEA CONFERENCE, DEPARTMENT OF STATE

Ambassador STEVENSON. Thank you, Madam Chairman.

The CHAIRMAN. We have been very anxious to hear what you have to tell us.

Ambassador STEVENSON. I have a formal written statement which I would like to submit for the record, if I may.

The CHAIRMAN. Without objection, your full statement will be put into the record at this point.

[The full statement of Ambassador Stevenson follows:]

STATEMENT BY AMBASSADOR JOHN R. STEVENSON, SPECIAL REPRESENTATIVE OF THE PRESIDENT, AND CHAIRMAN OF U.S. DELEGATION TO THE THIRD UNITED NATIONS LAW OF THE SEA CONFERENCE

Madam Chairman: I welcome this opportunity to appear before the House Merchant Marine and Fisheries Committee to report on the progress made at the first substantive session of the Third United Nations Conference on the Law of the Sea held in Caracas, Venezuela, from June 20 to August 29, 1974.

Before proceeding with this report, I would like to say how much we appreciated the attendance at the Conference of Representative de la Garza of this Committee and Mr. Ernest J. Corrado, Mr. Ned P. Everett, and Mr. Francis D. Heyward of the Committee Staff. We are deeply grateful for their willingness to attend the Conference and for the advice and assistance that they and other members of the Committee have given to our efforts to achieve an agreed constitution and supporting legal regime for two-thirds of this planet. It has been and will remain a fundamental part of our policy to work closely with the Congress and this Committee to achieve a Law of the Sea Treaty that fully protect the basic interests of the United States.

I want to emphasize at the outset that, while the results of the Caracas session were not all we hoped for, the session was not a failure.

A most significant result was the apparent agreement of most nations represented there that the interests of all will be best served by an acceptable and timely treaty.

To that end, the Conference has scheduled not only the next session in the spring in Geneva, but a return to Caracas for the signing of this agreement in the expectation that this will take place in accordance with the United Nations timetable. That timetable provides for conclusion of the treaty in 1975.

Further evidence of this desire to achieve promptly a widely-acceptable treaty was reflected in the adoption by consensus of the rules of procedure early in the session. These rules make several changes in normal procedures that are designed to promote widespread agreement.

The tone of the general debate and the informal meetings was moderate and serious and reflected wide agreement on the board outlines of a comprehensive general agreement.

Finally, I am sure the members of the House who were with us will agree that the Delegates from all regions worked hard. Three or four simultaneous meetings were common and there were some night sessions. The number of papers worked on was enormous, but this time the object—largely achieved—was organizing and reducing the alternatives, not proliferating them.

Other accomplishments of the session were considerable. Among the most important are the following:

(a) The vast array of critical law of the sea issues and proposals within the mandate of Committee II—including among others the territorial sea, economi

zone, straits, fisheries and the continental margin—was organized by the Committee into a comprehensive set of working papers containing precise treaty texts reflecting main trends on each precise issue. All states can now focus on each issue, and the alternative solutions, with relative ease.

A similar development occurred with respect to marine scientific research in Committee III. Committee I, dealing with the novel subject of a legal regime for exploiting the deep seabed, had previously agreed to alternative treaty texts in the preparatory Committee and further refined these texts at the Caracas session.

(b) The transition from a preparatory Committee of about 90 to a Conference of almost 150, including many newly independent states, was achieved without major new stumbling blocks and a minimum of delay.

(c) The inclusion in the treaty of a 12-mile territorial sea and a 200-mile economic zone was all but formally agreed, subject of course to acceptable resolution of other issues, including unimpeded transit of straits. Accordingly, expanded coastal state jurisdiction over living and non-living resources appears assured as part of the comprehensive treaty.

(d) With respect to the deep seabeds, the first steps have been taken into real negotiation of the basic questions of the system of exploitation and the conditions of exploitation.

(e) Traditional regional and political alignments of states are being replaced to a certain degree by informal groups whose membership is based on similarities of interest on a particular issue. This has greatly facilitated clarification of issues and is necessary for finding effective accommodations.

(f) The number and tempo of private meetings has increased considerably and moved beyond formal positions. This is essential to a successful negotiation. Of course, by their very nature, the results of such meetings cannot be discussed publicly.

With few exceptions, the Conference papers now make it clear what the structure and general content of the Treaty will be. The alternatives to choose from, and the blanks to be filled in, and even the relative importance attached to different issues, are well known.

What was missing in Caracas was sufficient political will to make hard negotiating choices. A principal reason for this was the conviction that this would not be the last session. The absence prior to the completion of this session of organized alternate treaty texts on many issues also inhibited such decision making.

The next step is for Governments to make the political decisions necessary to resolve a small number of critical issues. In short, we must now move from the technical drafting and preliminary exploratory exchanges of views at this just completed session, which has laid bare both the outlines of agreement and the details of disagreement, to the highest political levels, involving heads of states themselves, to make accommodation on these critical issues possible.

The fundamental problem is that most states believe the major decisions must be put together in a single package. Every state has different priorities, and agreement on one issue is frequently conditioned on agreement on another. Thus, it might have been possible—and might have been helpful to the Executive Branch in its efforts here today—to adopt a general declaration of principles in Caracas endorsing, among other things, a 12-mile territorial sea and a 200-mile economic zone. Our Delegation opposed such an idea, because it would have diverted us from negotiating the key details of an economic zone that can spell the difference between true agreement and the mere appearance of agreement, and because our willingness to support such concepts is also conditioned on satisfactory resolution of other issues, including unimpeded passage of straits. In choosing to concentrate on precise texts and alternatives, our Delegation believed we were in fact best promoting widespread agreement on schedule. However, we recognized that the absence of tangible symbols of agreement would place us in a politically difficult situation between sessions.

In his closing statement before the Caracas session, the President of the Conference, recognizing the problem, stated, "we should restrain ourselves in the face of the temptation to take unilateral action", and then urged states to prepare to reach agreement "without delay" since governments cannot be expected to exercise 'infinite patience."

We regret that for a variety of reasons the Conference was unable to capitalize upon the initial, prevailing good will to produce a final treaty at the Caracas session. Nevertheless, the political parameters of an overall agreement were made much clearer at Caracas and we are at the stage where differences in approaches are embodied in specific treaty articles expressed as alternative formulations on almost all the major issues.

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On July 11 at a Plenary session, we noted there was a growing consensus on the limits of national jurisdiction, which we expressed in the following terms: "A maximum outer limit of 12 miles for the territorial sea and of 200 miles for the economic zone * * * conditioned on a satisfactory overall treaty package and, more specifically, on provisions for unimpeded transit of international straits and a balance between coastal state rights and duties within the economic zone." To promote negotiations on the essential balance of coastal state rights and duties the United States submitted draft articles proposing the establishment of a 200-mile economic zone in the treaty. The U.S. draft articles consist of three sections-the economic zone, fishing, and the continental shelf.

The economic zone section provides for a 200-mile outer limit with coastal state sovereign and exclusive rights over resources, exclusive rights over drilling and economic installations, and other rights and duties regarding scientific research and pollution to be specified. There would be coastal state environmental duties with respect to installations and seabed activities. All states would enjoy freedom of navigation and other rights recognized by international law within the economic zone.

The fishing section gives the coastal state exclusive rights for the purpose of regulating fishing in the 200-mile economic zone, subject to a duty to conserve and to ensure full utilization of fishery stocks taking into account environmental and economic factors. Fishing for anadromous species such as salmon beyond the 12-mile territorial sea would be prohibited except as authorized by the host state. Highly migratory species such as tuna would be regulated by the coastal state in the zone and by the flag state outside the zone, in both cases in accordance with regulations established by appropriate international or regional organizations. Membership in the organization would be mandatory and the coastal state would receive reasonable fees for the highly migratory fish caught in its zone by foreign vessels. The international organization in establishing equitable allocation regulations, would be obligated to ensure full utilization of the resource and to take into account the special interests of the coastal states within whose economic zones highly migratory fish are caught.

The continental shelf section provides for coastal state sovereign rights over exploration and exploitation of continental shelf resources. The continental shelf is defined as extending to the limit of the economic zone or beyond to a precisely defined outer limit of the continental margin. The coastal state would have a duty to respect the integrity of foreign investment on the shelf and to make payments from mineral resource exploitation for international community purposes, particularly for the economic benefit of developing countrise. In our plenary statement we suggested that these payments should be at a modest and uniform rate. The revenue sharing area would begin seaward of 12 miles or 200 meters water depth, whichever is further seaward.

The draft articles on the economic zone place the United States in the mainstream of the predominant trends in the Conference, and we were pleased with the favorable reaction to our proposal. We were disappointed, however, at the support, particularly among a number of African countries, for an economic zone in which there would be plenary, coastal state jurisdiction, not only over resources, but over scientific research and vessel-source pollution as well and in all of these areas there would be no international standards except provisions for freedom of navigation and overflight and the right to lay submarine cables and pipelines. Many of the same countries are saying that if a pattern of unilateral action by individual countries emerges before a treaty is agreed, they would go further and opt for a full 200-mile territorial sea.

We believe that specifying the rights and duties of both coastal states and other states in the economic zone is the approach best designed to avoid the sterile debate over abstract concepts.

At the final meeting of the Second Committee on August 28, the Chairman, Ambassador Andres Aguilar of Venezuela, made a constructive and challenging statement summing up its work. On its own initiative, the Committee decided to have the statement circulated as an official Committee document. This occurred after initial opposition by the 200-mile territorial sea supporters, which was withdrawn in the face of other Delegations' willingness to proceed to a vote if necessary. Because of its great importance and the universal respect and admiration earned by Chairman Aguilar for his strong and effective leadership, I would like to quote briefly from that statement.

"No decision on substantive issues has been taken at this session, nor has a single Article of the future Convention been adopted, but the States represented here know perfectly well which are at this time the positions that enjoy support and which are the ones that have not managed to make any headway.

"The paper that sums up the main trends does not pronounce on the degree of support which each of them had enlisted at the preparatory meetings and the Conference itself, but it is now easy for anyone who has followed our work closely to discern the outline of the future Convention.

"So far each State has put forward in general terms the position which would ideally satisfy its own range of interests in the seas and oceans. Once these positions are established, we have before us the opportunity of negotiating based on an objective and realistic evaluation of the relative strength of the different opinions.

"It is not my intention in this statement to present a complete picture of the situation as I see it personally, but I can offer some general evaluations and comments.

"The idea of a territorial sea of 12 miles and an exclusive economic zone beyond the territorial sea up to a total maximum distance of 200 miles is, at least at this time, the keystone of the compromise solution favoured by the majority of the States participating in the Conference, as is apparent from the General debate in the Plenary meetings and the discussions held in our Committee.

"Acceptance of this idea is, of course, dependent on the satisfactory solution of other issues, especially the issue of passage through straits used for international navigation, the outermost limit of the continental shelf and the actual retention of this concept and, last but not least, the aspirations of the land-locked countries and other countries which, for one reason or another, consider themselves geographically disadvantaged.

"There are, in addition, other problems to be studied and solved in connection with this idea, for example, those relating to archipelagos and the regime of islands in general.

"It is also necessary to go further into the matter of the nature and characteristics of the concept of the exclusive economic zone, a subject on which important differences of opinion still persist.

"On all these subjects substantial progress has been made which lays the foundations for negotiations during the intersessional period and at the next session of the Conference."

Madam Chairman, our experience during the Caracas session indicated that in the area of deep seabed mineral exploitation wider divergences exist between the U.S. and the majority of nations at the Conference than on any other issue. The United States took the position that the convention must "guarantee access on a nondiscriminatory basis" to deep seabed resources. During the conference we explained that our concept of "guaranteed access" included a requirement that mining rights be granted automatically to any qualified applicant, that the whole system for granting rights be carefully structured in the treaty to insure that the system would be economically efficient and that exploitation occur under a set of detailed conditions written into the treaty that, taken together, guarantee the security of exploitation necessary to attract investments.

As in other areas of the law of the sea, the United States has sought in the deep seabed negotiation to protect its principal national interest in access to these mineral resources not by sweeping generalities written into treaty articles, but rather by setting out detailed provisions that explicitly prescribe how the system will work, what will be the rights and obligations of both the international machinery established to govern exploitation and the prospective ocean miners who will do business under the system and what kinds of safeguards will be provided for ensuring that these respective rights and obligations are protected and fulfilled. Nevertheless, it is clear that inclusion in the convention of a detailed mining code alone would not fully protect our interest in guaranteed access, and thus the United States position also depends on achieving an appropriate balance in decisionmaking organs that realistically reflect existing interests, as well as providing machinery for the compulsory settlement of disputes.

Inclusion in the treaty, or in an annex with equal legal status of the "basic conditions of exploration and exploitation" was widely accepted this summer. However, the Group of 77 approach to "basic conditions of exploitation" differs from our own concept of rules and regulations in major ways. This includes the amount of detail to be included in the treaty. The Group of 77 draft also leaves substantial discretion to the International Authority where our regulations leave little, if any. The Group of 77, and indeed some other countries like Norway and Sweden, have argued that it would be unwise to attempt to freeze in the treaty the precise terms and conditions to be imposed on an industry about which we have little knowledge. Moreover, many delegations expressed apprehension that a negotiation of detailed rules and regulations would be extremely technical and that, lacking technical experts on ocean mining in their own governments, they

would be placed at a considerable disadvantage in such a negotiation. Such a negotiation, they have also argued, could not be completed in 1975.

We believe many of these arguments reflect underlying political and economic differences. One such difference relates to the conceptual differences concernnig the nature and scope of the powers to be exercised by the International Seabed Authority. Another difference is that many countries in Committee I attach considerable importance to a widely ratified agreement that recognizes both the power of the Authority to engage in direct exploitation and its complete control over exploitation conducted by any other entity in the International Seabed Area. A third such difference is that several countries, some in leadership roles in the Committee, seek to use the power of the Authority to restrict seabed mineral production in order to protect their own land-based mineral resources. Inclusion of detailed rules and regulations in the convention, they argue, would create a "strait jacket" for the Authority and would jeopardize the ability of the Authority to exercise direct and effective control over all activities of exploration and exploitation.

The U.S. responded to these arguments in detail in the discussion in Committee I and indicated why rules and regulations are an important part of any deep seabed mining system.

Committee I, unlike the other committees, had before it a complete set of alternative treaty texts on the international regime and machinery assembled by the UN Seabed Committee. Thus, during the Caracas session, Committee I devoted almost all of its time to consideration of the three key issues under its mandate which have or will present the greatest difficulty. These isssue—the exploitation system, who may exploit the area, the conditions of exploitation and the economic aspects of exploitation—are at the very core of the successful resolution of the multitude of alternative treaty texts on the international regime and machinery prepared by the UN Seabed Committee. Moreover, they are subjects whcih had not previously received careful and thorough consideration during the course of the negotiation.

Early in the Caracas session, the Group of 77 negotiated among themselves and then introduced a new alternative text for the important Article 9, "Who May Exploit the Area." While this text is unacceptable to the U.S., it should be noted that in previous meetings the Group of 77 had been unable to agree that the Authority should be allowed to enter into various types of contractual arrangements with private entities. The new text, however, permits this practice as long as the Authority maintains "direct and effective control" over all activities. A trend could be discerned towards recognition that at least in the early years of its existence, the Authority would of necessity be required to deal with those private corporations from industrialized nations that have the financial and technical capacity to mine the seabeds. In order to attract these entities, the Authority will have to offer reasonable and secure conditions for their investments. The Group of 77 text does not contain any retreat from their position on direct exploitation by the Authority.

Madam Chairman, we believe that Committee I benefitted greatly from a shift in the focus of its deliberation from the question of who may exploit the area to the conditions of exploitation. In a negotiating effort to meet the expressed concerns of the United States and other industrialized countries, the Group of 77 agreed to elaborate in greater detail the extent of control which their proposal would grant the Authority, the basic conditions of exploitation that the Authority would be empowered to impose on ocean miners. The proposed basic conditions introduced by the Group 77 would grant the Authority far greater discretion in managing seabed operations than the United States could accept, but it includes several interesting elements which merit further discussion, such as security of tenure, a priority of right for the explorer to move to the exploitation phase and selection among applicants on a competitive basis. Moreover, the very introduction of "basic conditions of exploitation" represents a commitment to the concept that some such conditions will be included in the convention.

In comparison to the Group of 77 draft of basic conditions, the draft conditions of exploration submitted by the United States is detailed and designed to limit the power of the Authority to discriminate among various ocean miners and to impose arbitrary and unreasonable terms and conditions. The draft conditions submitted by Japan and those prepared by eight members of the European Community are generally similar in approach and in detail to the United States position. The drafts, however, contemplates licensing only to states rather than directly to private entities. They also include a limitation on the number of mine sites to be granted any single entity. Moreover, the Union of Soviet Socialist

Republics publicly endorsed a similar type of quota system for states. The United States has not supported any limitation on the amount of area for which exploitation rights can be granted to any single state or natural or juridical person but has sought through requirements to ensure diligence that the area will be brought into commercial production within a specified period of time. Moreover, it is important to mention that the Soviet Union clearly endorsed exploitation by the Authority through service contracts and joint ventures as well as exploitation by states.

Madam Chairman, Committee I devoted several informal meetings to general debate on the proposals for basic conditions tabled at Caracas. There was little detailed discussion of the specifics of the rules and regulations proposed by the U.S. or other industrialized countries. The reaction of many countries to the industrialized nations' drafts, were highly critical. They indicated their apprehension that these proposals unduly restricted the Authority's powers and thus were at variance with their concept of a strong international machinery. A view expressed by many was the need for protection of land-based production. In addition, in the view of many delegations, the available knowledge concerning ocean mining is at present too limited to allow agreement on detailed regulations that would have the same force as treaty law. In a statement to the Committee on August 19, the United States described what it believed to be the most essential elements to be contained in basic conditions of exploitation and elaborated the United States position that in those areas where it is not possible at this time to draft regulatory provisions, a detailed and carefully constructed system of rule making should be established by the convention.

In addition to the exploitation system and the conditions of exploitation, Committee I considered the question of economic effects of seabed production on the economies of developing country producers of the metals contained in manganese nodules. As we have testified several times before this Committee, the United States is opposed to granting the International Seabed Authority the right to impose, either directly or indirectly, price and production controls on seabed operations. The question of economic implications, however, has always been a highly politicized issue in the law of the sea negotiations. We believe appreciation in the course of discussions on the economic implications of deep seabed mining of the uncertainty surrounding estimates that seabed production will damage the economies of developing country producers of copper, cobalt, nickel and manganese. Moreover, for the first time we heard public statements by representatives of developing countries that recognizes the need to protect consumers from artificially high prices for these metals. While this new awareness has by no means eliminated support for price and production controls within the Committee or an Authority with strong regulatory powers, we are hopeful that future discussion of the economic implications issue can be conducted in a more knowledgeable and pragmatic context.

Madam Chairman, the nations participating in the deliberations of Committee I are now more aware than ever before of the serious importance which the United States attaches to its interests in the deep seabed negotiation. Our insistence that the convention must spell out the conditions of exploitation in order for us to be certain that guaranteed access on a nondiscriminatory basis is fully protected has helped to produce agreement to negotiate basic conditions. Though this agreement does not meet our concerns as to the conditions which must be included in the treaty, we are hopeful that such a negotiation, coupled with further consideration of the article on the exploitation system, can serve to facilitate agreement on the rights and duties of both the Authority and ocean miners.

The Caracas session did not see any major negotiating breakthrough or fundamental change in any position. However, during the last few weeks of the Conference real negotiations began on the basic conditions for exploitation when the First Committee agreed to establish a small, informal negotiating group. This group will resume its work at the next session of the Conference and we hope that negotiations in this context and during the intersessional period will lead to a narrowing of differences and a realistic approach that will promote access by industrialized consumer countries and the development of the mineral resources of the deep seabeds. The differences between what we call regulation and what others call control may be narrowed if we can agree on the conditions of exploitation, including measures to ensure that exploitation on a nondiscriminatory basis will take place, and if agreement can be reached on protecting relevant interests in the decision-making process. We cannot overlook, however, the fact that the positions of the industrialized countries and the Group of 77 are widely separated on the question of the basic conditions of exploitation. The underlying reason for

this divergence on all aspects of the Committee I negotiation is that the developing countries as a rule tend to approach the negotiation from a conceptual perspective that envisions an international machinery with broad, general powers, including the power of direct exploitation. The United States, however, favors elaborating in detail both the powers of the Authority and the safeguards to prevent abuse of this power and does not support the power of direct exploitation. Committee I is perhaps our most difficult negotiation, rooted as it is in widely differing political and economic interests.

In the Third Committee of the Conference, there were mixed results on formulating treaty texts for protection of the marine environment and oceanographic scientific research. We were pleased that texts concerning the preservation of the marine environment were prepared on several points including basic obligations, particular obligations, global and regional cooperation and technical assistance. But basic political issues remain to be resolved on the jurisdiction of port and coastal states with respect to vessel-source pollution and on whether there will be different obligations for states depending upon their stage of economic development—the so-called double standard. We believe that the Caracas session broadened the basis of understanding of the complex problems involved in drafting new legal obligations to protect the marine environment, and there were indications that all states were analyzing their environmental policies in detail.

On the scientific research issue, the various proposals were reduced to four principal alternatives regarding scientific research within the areas of national jurisdiction. Some states advocated a regime requiring coastal state consent for all research. Others supported a modified consent regime. The United States supported a regime which places obligations on the state conducting the research to notify the coastal state, provide for its participation and ensure sharing of the data, and assistance in interpreting such data. Other states proposed complete freedom of scientific research.

We were encouraged by the fact that for the first time states appeared to be moving toward serious negotiations on this subject, including serious consideration of our proposal.

Madam Chairman, we know there will be disputes with respect to the interpretation and application of the provisions of the Treaty. The willingness of the United States and many others to agree to a particular balance of the rights and duties of states and the International Authority is predicated upon reasonable confidence that the balance will be fairly maintained. Accordingly, the establishment of an impartial system of peaceful and compulsory third party dispute settlement is critical. We were encouraged to find at the Caracas session that there were states from all Regional Groups that support the need for comprehensive dispute settlement provisions. At the end of the session, the United States co-sponsored, with eight other states from different regions, a working paper containing alternative texts of draft treaty articles. This document was prepared, and is in general supported, by a broader informal Group chaired by the Representatives of Australia and El Salvador, for which Professor Louis Sohn of the Harvard Law School served as Rapporteur. We hope this document will facilitate the drafting of treaty articles on this important element of the Convention.

With your permission, Madam Chairman, I will submit for the Record a copy of the Report transmitted by the Delegation to the Department of State on August 30, and copies of all draft articles sponsored or cosponsored by the United States. The consolidated Treaty texts in Committee II and other documents will be transmitted to the Committee as soon as we receive them from the UN Secretariat.

Madam Chairman, it is my firm conviction that a comprehensive treaty is obtainable by the end of 1975 as contemplated in last year's United Nations General Assembly Resolution. To do so, however, governments must begin serious negotiation the first day at Geneva, and to prepare for that, they must during the intersessional period appraise the alternatives, meet informally to explore possible accommodations that go beyond stated positions, and supply their delegates with instructions that permit a successful negotiation.

A multilateral convention of unparalleled complexity affecting some of our nation's most vital economic and strategic interests is within our reach. We cannot and will not sign just any Treaty; but in my judgment we would be terribly remiss in our responsibilities to the United States and to the international community as a whole if we were now to overlook broader and longer-range perspectives. In the year ahead we intend to work diligently and carefully for a Convention that will protect our interests in the broadest sense of that term. In this endeavor, Madam Chairman, we trust that we shall have the guidance and support of the Congress and of your Committee.

Through our mutual cooperative efforts I am certain that we can take the necessary steps and develop constructive initiatives so that all will agree that the United States has done all it could to foster a successful outcome of the Third United Nations Conference on the Law of the Sea on schedule in 1975.

Thank you, Madam Chairman.

Ambassador STEVENSON. I will cover orally the highlights of that written statement, Madam Chairman.

Let me say how much I appreciate the opportunity to report directly to this committee on what was the first substantive session of the Third United Nations Conference on the Law of the Sea.

We regretted that you, Madam Chairman, and others who had planned to come could not be with us again this summer as you have been in the past, but we were very pleased to have Mr. de la Garza and members of your staff—Ernest Corrado, Ned Everett, and Capt. Pete Heyward—with us this summer.

We have always appreciated working closely with this committee in this negotiation and in our efforts to achieve general agreement on an oceans treaty.

The CHAIRMAN. May I just say, Mr. Ambassador, a number of the members had planned to be there and wanted very badly to be there and listen in and the work on the floor and in our committee just prevented it so we sent as many of the staff as we could to keep it covered.

Ambassador STEVENSON. Well, we appreciated having them there and I hope we will continue in the very critical year ahead to work very closely with this committee and its able staff in achieving a generally acceptable treaty which will protect U.S. interests.

Turning now to the results of the conference let me say that in general the results obviously were not all that many of us hoped for at that session.

On the other hand I think the session was clearly not a failure.

I would like to review briefly what in my view were the principal accomplishments of this session and then indicate why in my view it did not accomplish more.

I think I might mention first as an accomplishment the expressed or implicit agreement of most, but not all, of the countries that were participating, that their best interest in this area would be served by a timely and generally acceptable treaty.

Now, what evidence was there of this view?

Well, I think in the first place the efforts of a small group of countries to schedule for next summer a single 6-week session putting off until the following year final determinations in this area was defeated and the conference agreed to have an 8-week session beginning next March and provided for returning to Caracas to sign a treaty.

I think this was done in the expectation on the part of many delegations of completing these negotiations on schedule which means they must be completed next year.

By having the substantive sessions in the spring this does leave the possibility if substantive work needs to be done to complete the treaty to do that in the summer.

Second, I think it was very significant that despite many apprehensions and dire predictions the Conference did adopt on schedule in the first 2 weeks rules of procedure including a number of provisions which were relatively new and designed to deal with some of

the difficult problems of international lawmaking in this kind of a forum.

Third, I think the tone of the general debate which we had at the outset of the session was very moderate. Only two or three delegations resorted to polemics. Many delegations indicated a considerable movement and made constructive efforts to try to reach some agreement.

I think finally in terms of evidencing this commitment to these negotiations I should point out that, unlike some of the earlier sessions of the Seabeds Committee, at this Conference practically every day there were three or four simultaneous committee meetings including some night meetings and I think all delegations worked very hard.

I think it is also important to note that for the first time this summer we had upward of 50 new countries participating in the Conference itself that had not been members of the preparatory committee that ultimately reached 90. The new participants included a significant number of newly independent countries that had not participated before. I think the job of bringing them on board was effectively accomplished this summer.

Well, turning from basically procedural and organizational developments to substance, what was accomplished?

Well, it is clear, as some press reports have stressed that no specific treaty text were adopted. However, there was a good deal of substantive progress.

I think if I were to single out any one development I would say that the very broad support that was publicly stated for a 12-mile territorial sea and 200-mile economic zone was by all odds the most significant development.

I think well over 100 countries indicated their support for this, either in the general debate or in committee. So much so that the Chairman of Committee II said that in his view this package was the keystone of the compromise solution favored by the majority of states participating in the conference.

An effort by one or two of the 200-mile territorial sea states to oppose the inclusion of this Chairman's statement as a conference document was withdrawn after a vote was threatened.

In this connection I think it is significant that this summer for the first time, the Soviet Union, the United Kingdom, and the United States all endorsed expressly the concept of a 200-mile economic zone as part of an overall treaty package including satisfactory provisions on other vital matters such as transit through international straits, the balance of coastal states' rights and duties within this economic zone, and a satisfactory deep seabed regime.

In order to advance the negotiations on the 200-mile economic zone, the United States submitted draft treaty articles.

I will not go into detail because they are reviewed in my written statement but let me just say very briefly that this set of articles does provide for exclusive coastal state management of resources within the 200-mile economic zone and in the case of seabed mineral resources to the edge of the Continental Shelf margin where that extends beyond 200 miles.

This coastal state resource jurisdiction in this area would be subject to specified international standards: In the case of the seabed an obligation to share a modest portion of the revenues from exploitation

of seabed resources with the international community, particularly developing countries and landlocked and geographically disadvantaged countries and a further commitment to observe contractual commitments freely entered into.

The international obligations with respect to coastal state fisheries management would be an obligation to conserve and fully utilize the fishery resources and, in the case of highly migratory species such as tuna, to manage in accordance with standards recommended by the appropriate international or regional fisheries organization.

Furthermore, there was a provision for a ban on fishing for salmon beyond the territorial sea.

I think this set of articles, and I would be glad to discuss any of the details later, clearly put the United States in the mainstream of the negotiations on the 200-mile economic zone which is really one of the most critical negotiations in which we are engaged.

The articles themselves were, by and large, favorably received. However, we were somewhat disappointed that a group of African states the very last week of the conference put in their own economic zone proposal in which there was not only plenary coastal state jurisdiction over resources but also over scientific research and vessel source pollution within the economic zone.

Furthermore, there were no international guarantees limiting coastal state resources and other jurisdiction in this zone except minimal guarantees for navigation, overflight and to protect pipelines and cables but nothing, for example, indicating the coastal state's duty to conserve or to fully utilize the resources and no revenue sharing.

A number of these same countries incidentally were indicating that if instead of continuing the negotiations which I think were very effectively initiated at Caracas, the tendency is towards unilateral action they would not limit themselves to unilaterally declaring an economic zone but rather would move to a 200-mile territorial sea in which navigational rights would be limited to innocent passage.

Also in Committee II, which is really the committee dealing with the critical Law of the Sea issues in the area of the territorial sea and coastal state jurisdiction, for the first time actual working documents were prepared, listing in an orderly fashion the specific treaty text alternatives.

We fortunately had a very strong and effective chairman who basically disciplined this committee to the extent that they were able to reduce a vast number of separate national proposals into some working documents so really for the first time in these critical areas, we do have basic text to deal with.

This was a very significant preparatory job. Obviously, it would have been much better if it had been completed earlier. However, in view of the political sensitivity of many of these issues, it may well have been that it took the impact of the actual Conference beginning to get this job done.

Turning now to another area that I know is of particular interest to this committee; namely, the deep seabed, the first committee which is charged with developing a regime, particularly with reference to mining of manganese nodules for the production of nickel, copper, cobalt, manganese, and other metals, the committee really took the first step toward real negotiations on the very critical questions of exploitation and to the conditions of that exploitation.

Now, I think it is only fair to say that it is in this area that you have the sharpest differences between the position of the United States together with some of the other industrialized countries with ocean technology and the developing countries as well as some of the other developed countries, such as Norway, Canada, and Australia.

I think that the basic difference in approach is in the degree of discretion that would be given to the seabed authority both with respect to the question of access to these resources and second, with respect to the regulation of exploitation once access has been achieved.

The basic U.S. position, of course, has been to seek an automatic grant of exclusive rights to applicants meeting certain objective standards set forth in the treaty.

The developing countries position has been to urge and support a much stronger authority with much more discretion in determining access and regulation.

From a technical standpoint this committee prior to last summer had done more in terms of preparing treaty texts than any other committee. There were alternate treaty texts on all important issues, so basically this committee this summer concentrated on three questions: Who should exploit this area, how should they exploit it, and what would be the economic consequences of exploiting it.

Now, for the first time this summer the developing nations accepted the proposition that the treaty itself should include the conditions of exploitation rather than leaving that entirely to the discretion of the the authority.

However, the developing countries' view is that only the basic conditions of exploitation, not detailed conditions, should be set forth in the treaty and that those conditions should allow the authority considerable discretion.

They also argued that at this point in time we do not yet have enough information to determine the conditions of exploitation in detail and they also indicated concern about dealing with what they viewed as a technical area where, because of their lack of knowledge and technology they would be at a negotiating disadvantage.

A second area in which there was certain movement was that for the first time the developing countries in a formal proposal indicated that the authority could enter into contractual arrangements with others for production of deep seabed minerals.

Their initial position has been that the authority itself should conduct exploitation but this summer they introduced a text indicating that in addition to exploiting itself, the authority could enter veto contracts with others to do so. There was no retreat from maintenance of the position that the authority should itself have the right of direct exploitation.

But in addition to that, the authority could enter into contractual arrangements governing exploitation with private enterprise and other producers providing the authority maintained direct and effective control at all times.

With respect to the third area with which this committee dealt this summer; namely, the question of economic implications, I think for the first time there was an informed discussion of the different points of view as a result of the different reports and statements presented on this question of the effect on existing land-based production of increasing seabed production of the same metals in the future.

While there was by no means agreement on these consequences I do think that there is an increasing awareness, although not always admitted publicly, by many developing countries of the uncertainty of any estimates of the effect of seabed production on present land-based production.

I think also for the first time you heard some statements by developing countries that are not producers of these metals of their interest as consumers, an interest which separates their basic interest from that of the smaller number of land-based producers.

Having said that, however, I think it is only fair to report that the land-based producers among the developing countries continued to maintain a leadership position and because of this and because of the solidarity among developing countries in this area, there is still strong support for price and production controls as a way of avoiding injury to these land-based producers.

I think as a result of the discussions this summer however, we can look forward to somewhat more informed and pragmatic discussions of this rather than the strictly ideological type of approach that we have had in the past.

Summing up on Committee I in this area of the deep seabed, I think that despite these evidences of movement this summer there does remain a large gap in the positions.

To some extent this is based on a conceptual difference. The developing countries tend to approach the negotiations from their own conceptual view of a seabed authority with broad general powers, including the power to itself engage in exploitation and to control prices and production, while the United States and other industrialized countries have favored elaborating in detail both the powers and the limitations on those powers of the seabed authority.

I also think that as a result of the discussion this summer other nations are clearly aware of the very serious importance that the United States attaches to its interests in access to these seabed minerals.

On the procedural front toward the end of the formal sessions the committee did establish an informal negotiating group and it is to be hoped that this group as well as certain intrasessional informal meetings that have been set up or planned will continue the pragmatic type of negotiations that emerged at the end.

I think in terms of achieving agreement, a good deal of conceptual flexibility and imagination, while maintaining the heart of substantive U.S. position will be required.

With respect to the third committee dealing with scientific research and pollution there was only a modest amount of progress in the area marine pollution with very little public discussion of the most controversial issue; namely, the question of coastal State jurisdiction in the economic zone to enforce standards, and in some cases, to set those standards, with respect to pollution from vessels.

There did develop a rather sharp difference on the question of whether developing countries should be required to observe the same standards as developed countries in meeting pollution concerns.

With respect to scientific research, there was a very interesting development. A group of countries, including some developing countries supported a proposal which is basically similar to the U.S. proposal to maintain freedom of scientific research within the coastal States eco-

nomic zone, conditioned on foreign countries and their nationals carrying on that research being subject to certain obligations to notify and to invite the participation of and to share the results with the coastal States.

I think that with respect to Committee III, it is important to point out that the most critical issues, namely, the question of marine pollution and scientific research in the economic zone do deal with a subject matter that is also being dealt with in the Committee II negotiations on the economic zone.

While we have always felt that more progress would be made by dealing with these two subjects separately in Committee III, a number of delegations have been unwilling to proceed too far in this committee until the basic nature of the economic zone had been negotiated more completely in Committee II.

Finally, I might mention that in addition to the committee discussions, whether in working groups or public sessions, there was a very marked increase this summer in the number of informal sessions where delegations could negotiate and exchange views obviously going beyond their stated public positions.

I think we also had an interesting development which was the organization completely outside the formal committee structure of groups to deal with certain issues of particular interest to a number of different countries.

I think the notable example of this was a group interested in compulsory settlement of disputes which met for the last month of the conference and the final day introduced a working paper which was cosponsored by countries from different regions including developing countries containing alternate treaty text on the most important issues in this area.

Well, so much for the results.

Now, why was not more achieved in terms of the adoption of actual treaty texts?

I think there are at least three explanations. I think most important was the lack of sufficient political will to make some of the hard negotiating decisions that would have been required.

Now, this was partially because all countries were convinced that there was going to be another session of this conference in 1975 and therefore, they were not prepared to make some of the necessary accommodations and did not want to vote on alternatives last summer.

I think a second reason for lack of progress was that in some areas, notably Committee II's area, we did not have properly organized alternative text before the conclusion of last summer's session.

Finally, I would like to mention the package deal concept. I think it has been generally felt by a large number of countries that an oceans treaty will have to deal with a number of interrelated critical issues and there was a considerable reluctance to deal partially with some of those issues unless the conference was prepared to deal with all of them.

One example of this philosophy was that the Chairman suggested at one point in the conference that if we could not achieve final agreement on treaty text that we should have a declaration of principles.

After all as I pointed out earlier, there was very general agreement on the 12-mile territorial sea and 200-mile economic zone. However, the conference decided against this and I think they did so basically

for two reasons which I have characterized as the horizontal and vertical reasons for opposing it.

I think the horizontal reasons for opposing it was that a number of delegations did not want to deal with the territorial sea and the economic zone unless at the same time we deal with for example, straits and the deep seabed.

I think the vertical opposition came from those who were fearful that to simply adopt a 200-mile economic zone without at the same time knowing what the fine print was going to be—without knowing what limitations there would be on coastal state jurisdiction—would have been giving up bargaining strength that would be very difficult to get back.

I think our decision was a conscious decision and was taken on the part of many delegations who, from a political standpoint, would have liked to have a declaration of principles so we could have shown the extent of the general progress, yet in the end this would not have facilitated the negotiation of a treaty.

I think this failure to achieve treaty text last summer was attributable largely to these factors.

I would like to say that it is my conviction and I think the conviction of most of the delegation that a treaty can be achieved by the completion of 1975 in accordance with the present schedule.

To do that, however, governments must be willing to make the hard decisions necessary to resolve a small number of critical issues and they must move right away from the technical drafting and exploratory exchange of views which we completed at Caracas to hard negotiations. These negotiations, because of the very important national interests involved, will have to be conducted at very high levels and must include in many cases, the heads of state themselves.

I think that the delegations must return to Geneva prepared to negotiate on the opening day and between now and then they must carefully consider the different alternatives and push intersessional negotiations as far as they can fruitfully be pushed.

I do think that a multilateral comprehensive convention of unparalled complexity and of unparalled scope in terms of the interests involved is within our reach. I also mean a treaty that would protect U.S. interest, not just any treaty.

However, this international lawmaking process through multilateral negotiation, as any of you who have been with us know, is a tedious, frequently frustrating and always very demanding effort, but there really is no other way of achieving a generally acceptable agreement and avoiding continuing conflict and chaos.

However, I think we are also very conscious, particularly in the light of some of the concerns that I know this committee has, with the necessity for speed and for getting this treaty in a timely fashion.

I think that is not only a question of not wasting the Government's money and permitting the members of the delegation to return to their normal activities, but even more important that if we do not get agreement next year, the opportunity to ever do so may very well slip away as countries, because of their serious concerns with developments and in order to protect their own interests, take unilateral action which makes the achievement of an international agreement much less possible as positions within countries become very polarized and frozen.

Madam Chairman, we hope we will have the continued support of this committee in our efforts next year.

Thank you.

The CHAIRMAN. Thank you very much, Ambassador. We all have several questions but I would like to make an announcement that we are having a special ceremony on the floor today so we must recess this meeting this morning at 11:45 promptly and that means that we probably will not get to hear from Mr. Moore but he is here and probably could come back at some mutually agreed upon time later.

I have a few questions I would like to start out with, Mr. Ambassador. One is to enlarge upon the last point that you brought out.

I wanted to ask specifically what factors do you base your apparent belief that a great majority of nations generally desire a treaty at an early date?

I think after you read over what you have said you might develop this for us and let us have it for the record.

Would you do that for us?

Ambassador STEVENSON. Certainly. [The committee's reference is invited to paragraphs 4 through 9 of Ambassador Stevenson's written statement for the record.]

The CHAIRMAN. In the event that we should extend our fisheries zone jurisdiction to 200 miles either unilaterally or by international agreement I assume the Coast Guard would have the responsibility for surveillance and enforcement over this extended 200-mile zone.

Has the U.S. delegation to the Law of the Sea Conference given any consideration as to how much more equipment, personnel, and funding would be necessary for the Coast Guard to police adequately this 200-mile zone and could you give us the increased requirements of the equipment, personnel, and money?

Ambassador STEVENSON. We have, of course, given consideration to the problem. Of course, it is an even greater problem from the standpoint of many developing countries than it is from our standpoint.

I would like to consult with the Coast Guard and give you specific answers later for the record.

The CHAIRMAN. If you please, but is it not really a monumental task with respect to the Coast Guard's ability to accomplish such a job?

Ambassador STEVENSON. Well, again, obviously enforcement is a problem, and I think it is particularly in the area of pollution, for example, that we have questioned whether some of the proposals for enforcing pollution regulations out to 200 miles were practicable. It is a difficult job.

On the other hand, with respect to some matters such as fishing where a particular species goes out further, it may make enforcement easier to be able to enforce throughout the range of the species.

As to the specific figures, I would like to have that submitted later for the record.

The CHAIRMAN. All right. At this point in the record, also without objection, I have a letter that was submitted by the Coast Guard at the request of Congressman John Murphy, of New York, who is chairman of the Subcommittee on Coast Guard. We will submit this for the record so you can see what has been done to date.

[The letter referred to follows:]

Hon. JOHN M. MURPHY
Chairman, Subcommittee on Goast Guard and Navigation, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of 1 July 1974, in which you request our thoughts and an assessment of resource requirements in the event United States jurisdiction over fisheries is extended to 200 miles. We have been addressing the subject for some months now and have developed what we consider to be a reasonable and effective plan of action.

The range of possibilities we face in fisheries enforcement has led us to develop as our primary planning tool an approach designed to be (1) usable with any foreseeable extension of fisheries jurisdiction, (2) reasonably compatible with any enforcement and surveillance methods that may become available and any regulations that are actually imposed on foreign fishing vessels, and (3) realistic. This approach is useful now in planning our current effort to enforce our jurisdictional limits, monitor compliance with international agreements, and keep informed on fishing off our coasts. Using this planned approach, we will be able to cope with enforcement under most degrees of cooperation by other nations whose vessels will seek to fish off our coasts.

The main thrust of our planned approach would provide various levels of coverage of known active fishing areas in direct proportion to the experienced intensity of foreign fishing activitie, i.e. our enforcement efforts would concentrate on those areas where and when the fishing will most likely be done. A mix of long and medium range aircraft would patrol the areas to monitor foreign fishing activity and provide fishing vessel locations to cutters on fisheries patrols. A mix of high and medium endurance cutters with helicopters embarked whenever possible would be used to monitor foreign fishing activity through examination from the helicopter and the cutter itself as well as through any boarding of the foreign vessels that may be permitted. The cutters would also make any seizures that may be permitted.

This part of our approach is very similar to our current effort under such provisions as:

1. 16 U.S.C. 986. National and international measures of control in connection with the International Convention for the Northwest Atlantic Fisheries. Enclosure (1) shows the area involved which covers the primary fishing areas off the East Coast and extends well beyond 200 miles.

2. 16 U.S.C. 1083. Enforcement of the prohibition on foreign taking of Continental Shelf fishery resources. Enclosure (2) shows the area within the 200 meter isobath. The area of enforcement of this provision actually extends beyond that isobath as far as the depth of the superjacent waters admits exploitation of the resources and the seabed and subsoil are adjacent to the United States. This area covers primary fishing areas off all coasts.

3. 16 U.S.C. 1027. National and international measures of control in connection with the International Convention for the High Seas Fisheries of the North Pacific Ocean. This Convention applies to North Pacific Ocean and Bering Sea areas that are in some cases more than 200 miles from the U.S. coast.

We have prepared composite plots of foreign fishing vessel sightings over a two-year period. See enclosure (3). The patterns change from time to time and new fisheries are developed, but there is no reason to believe that the active fishing areas will expand dramatically following an extension of jurisdiction. This belief is bolstered by available information on where fish are found. See enclosure (4). Enclosure (5) presents the experienced variations in foreign fishing activity over the last few years.

In addition to the coverage of known active fishing areas, some coverage to the full range of 200-mile jurisdiction will be provided to determine if changes in patterns of fishing activity are occurring, to make our presence known throughout the area, and to facilitate apprehension. This latter coverage is basically the difference between our five-year plan assuming no extension of fisheries jurisdiction and our five-year plan with an extension of jurisdiction to 200 miles.

If this approach were to be fully implemented, we will need to increase our operating facilities by six high endurance cutters, six long range search aircraft, four medium range search aircraft, and ten shipboard helicopters. To operate these facilities will require an increase in our annual operating funds of $47.2 million. The start up, acquisition and reactivation costs are estimated at $63.2 million. Both costs are estimated in 1975 fiscal dollars. I would like to caution that these cost estimates are determined by both the latest economic trends and acceptance of our coverage concept. For this reason, the estimates must be used.

with care. If either the concept or the economic trends change, the estimate will have to be adjusted accordingly. Details on these and other cost figures are set out in enclosure (6).

Assumptions have been made with regard to the availability for fisheries patrols of cutters and aircraft that must also serve other Coast Guard missions. The cost factors included are those related to operating, activating, and procuring cutters and aircraft. Operating and procurement costs are based on cutters and aircraft now in our inventory or at such an advanced stage of planning that costs may be determined with a reasonable degree of certainty. Operating costs are those associated with a 12-month period when all the cutters and aircraft required for the enforcement approach are available and operating. This will not be the case immediately upon implementation of any new legislation due to the delays in activating and procuring additional cutters and aircraft required to fully implement the approach adopted.

The period immediately following an extension of jurisdiction presents particular difficulties in planning. Added to the unknowns such as the regulatory scheme and the probability of violation, there will be such other unknowns as the positions of various nations with regard to existing international agreements and the U.S. position with regard to any interim period and escalating enforcement measures. The time of year will also be important as demonstrated by enclosure (5). We expect some cutter shortages until the ships we now hold in reserve are reactivated. We also expect significant flight hour shortages until additional aircraft can be procured. Until this occurs, interim provisions will have to be arranged to ensure adequate aerial surveillance. Although those provisions are uncertain, we have included in the five-year plan cost figures based on experience with aircraft currently in our inventory.

We could respond to any extension of fisheries jurisdiction immediately by using our active inventory of cutters and aircraft to best advantage by limiting safe speeds only as necessary to maintain the desired range of operation without regard to fuel cost. We could also overload our cutter crews for a period of time. If the extension comes within the next two years, we will have in reserve six old high endurance cutters and a number of helicopters. The cutters could be reactivated in six to eleven months. The first helicopter could be operational in about six months Costs of these actions are in enclosure (6).

Two approaches to continuing coverage of a 200-mile zone have been developed which are possible responses to your questions regarding the worst possible foreign reaction to a unilateral non-cooperative extension to a 200-mile fisheries zone. Neither approach looks to actual armed conflict with any of the nations whose vessels seek to fish off our coasts. We developed the approaches last year simply to demonstrate the costs involved. The costs in enclosure (6) have been updated, but they are not as comprehensive as the costs for the planned approach, e.g. many support costs included in planned approach figures are not included in the cost figures for these other two approaches. We do not feel that the very large expenditures they require would be in the public interest. The first approach uses a mix of high and medium endurance cutters on stations 60 miles apart along the 200-mile perimeter. A mix of long and medium range aircraft would patrol the zone twice a week. Operating costs would be about $750 million annually; acquisition and reactivation costs would be about $6 billion. The second approach uses cutters every 400 miles along the 200-mile perimeter on the theory that most violators sighted by twice-weekly overflights could be boarded within 24 hours. Operating costs would be about $200 million annually; acquisition and reactivation costs would be about $1.4 billion.

The fisheries enforcement and surveillance effort is a joint one with the National Marine Fisheries Service. The division of effort is along the lines of an interagency agreement, enclosure (7). We do not have their plans for increased effort in case of an extension of jurisdiction. The subject of Department of Defense actions and assistance has been addressed and resulted in a Memorandum of Agreement between DOD and DOT, enclosure (8). This memorandum speaks maily to policies re Command and Control and the deployment of DOD facilities in support of enforcement operations. In addition, the Coast Guard utilizes the outputs from DOD's comprehensive information gathering systems which provide important data on fishing fleet movements and concentrations.

You raised a related issue in the following words:

"Under the unilateral, non-cooperative assumption, request the Coast Guard's position in detail with reference to turning certain cutter or aircraft patrols from the 'white fleet' into 'gray fleet' operations, i.e., heavier, more modern armed vessels for special patrols, such as off Cuba, where confrontation may be more likely."

We think that our unique position apart from the Department of Defense in peacetime has been of great value to the United States in the areas of fisheries enforcement and surveillance.

The fact that we mix humanitarian functions and enforcement functions has undoubtedly played a part in the seizure, without the use of deadly force, of 41 foreign fishing vessels flying nine different flags for violating our fisheries jurisdiction.

The design of every Coast Guard cutter involves careful evaluation of size and armament as they relate to multi-mission operation. Cutters developed in that way served effectively with the Navy off Vietnam. While the size and armament of future cutters could well be affected by the development of a continuing confrontation with one or more of the nations whose vessels seek to fish off our coasts, the primary U.S. response at sea would probably involve Coast Guard enforcement measures similar to those presently employed, The Department of Defense would properly serve as neutralization potential in the event that a situation developed involving significant escalation of a military nature.

We feel that, at least for the present, our approach will allow us to proceed with no Congressional action beyond that of providing the additional resources required. However, considering the negotiations being conducted at the Law of the Sea conference, the situation probably will change. Should you or your staff desire further information on any of the issues involved, we are prepared to respond at your convenience.

These are difficult and complex issues which are complicated by rapidly increasing prices. For this reason, we request the opportunity to revise the cost estimates contained in enclosure (6) in light of the latest information available should you find need to use these data in the future.

Sincerely,

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

[Committee note.—The enclosures were placed in the files of the Committee.]

The CHAIRMAN. As you know the Merchant Marine and Fisheries Committee has jurisdiction over the Panama Canal.

Would the various considerations of the Law of the Sea Conference have any negative effect over the U.S. sovereignty over the canal and the Canal Zone and would the Law of the Sea affect the operation of the canal?

Specifically, if it were agreed to have a 200-mile economic zone would this not affect the traffic in and out of the Panama Canal?

Also, would there be provision made internationally for the right of innocent passage of straits in the event of a 200-mile economic zone.

What effect would this right of innocent passage in straits, if agreed to, have on the operation of the canal?

There are a lot of questions for you at this time but they are all tied together.

Have you discussed in the conference the Panama Canal?

Ambassador STEVENSON. The Panama Canal has not been discussed at all in the conference and hopefully will not be.

I think there has been understanding that this is a special regime. There have been some general statements not dealing with the specific technical issues that you have raised.

I did say there were some polemic statements in general debate. One or two of those related to the whole question of continuing U.S. sovereignty over the Panama Canal Zone but there has been no discussion from the technical standpoint.

The assumption has been that like the Suez Canal and Straits of the Dardenelles, the Panama Canal will be governed by a special regime and will not be affected by the more general provisions.

As far as the economic zone is concerned one aspect of the economic zone that virtually every one except the extreme 200-mile territorial sea advocates accept is that there shall be freedom of navigation and overflight in the economic zone. I do not think that is a concern.

As I indicated earlier the question of transit through straits has always been an essential part of an acceptable package as far as the United States is concerned. I think I did mention in my statement that in saying we were prepared to accept the 200-mile economic zone we, of course, would be doing so only as part of a generally accepted package which would also deal with the question of transit through straits in a satisfactory fashion.

The CHAIRMAN. Let me ask this. I understand the delegation was there from Panama.

To your knowledge were any of these provisions discussed by that delegation or the delegate?

Ambassador STEVENSON. No specific provisions but he obviously discussed the broader question of Panama's desire to have complete control over the zone. One or two other delegations publicly supported that point of view, including the host government I might add.

The CHAIRMAN. But that would not be a subject of the conference for a decision.

Ambassador STEVENSON. Definitely not.

The CHAIRMAN. I understand that in Committee II the chairman drafted 13 informal working papers which were subsequently discussed and revised in the informal working group.

These papers were designed to reflect the main trends which had emerged from various proposals submitted either to the Seabed Committee or to the Conference itself and I wonder would you please furnish this committee with a copy of each of those papers in the final revised form?

Ambassador STEVENSON. Yes, we plan to submit those plus certain other documents that were introduced last summer to the committee as well as our own full report on the Conference.

The CHAIRMAN. Fine.

[The full report on the Conference may be found beginning on p. 91.]

The CHAIRMAN. Just one other short question. Do the main trends identified in the informal working papers represent any substantial changes of position by governments which were represented in the Seabed Conference?

Ambassador STEVENSON. I think that would not be an accurate way of looking at what was done because the attempt was to reflect proposals that had a body of support even though it was not majority support. For example, on this issue of the 12-mile territorial sea and the 200-mile economic zone, even though the Conference itself overwhelmingly supported that package, you will have reflected as an alternative the 200-mile territorial sea.

We did not go beyond the step of preparing the alternatives. We did not vote to eliminate a proposal that was only a minority proposal so that I think the actual movement of countries is best reflected in their own public statements and in some of the proposals that they introduced like our own economic zone proposal, the Soviet economic zone proposal, than in the trend papers themselves.

Now, what we put in is reflected there so our whole economic zone is one of the alternatives that is before the Conference, but there still remain more alternatives than we would like in some of these areas and, of course, that will be the first order of business at Geneva to immediately try to decide or at least in the first instance, reduce the alternatives.

The CHAIRMAN. Thank you, very much.

Mr. Mosher?

Mr. MOSHER. Mr. Ambassador, the chairman has just rereferred to the probability that it would be a monumental task, I think that is the word she used, a monumental task for the Coast Guard to monitor and police the 200-mile zone.

In that connection was there much discussion at the Conference about the potential use of satellites for this role of monitoring and policing these zones?

Is satellite technology entering into the discussions at these conferences?

Ambassador STEVENSON. One or two delegations did introduce the idea, but not from the standpoint of facilitating the enforcement problem, but suggesting that maybe there should be some regulation of other countries finding out about what was happening in their economic zone through satellites.

I do not think this was very seriously pushed but it was not raised in the constructive way you are raising it.

Mr. MOSHER. I suggest that there is a positive opportunity here in this technology that should not be overlooked.

Ambassador STEVENSON. I agree with you.

Experimental remote sensing programs conducted by NASA have indicated that there may be potential maritime applications of this developing satellite technology. However, the use of such satellites is still in the experimental stage, and there are presently no plans for the establishment of an operational system. Moreover, the subject of remote sensing is currently under active consideration in the UN Outer Space Committee and its subsidiary bodies.

We feel, therefore, that it would be premature to enter into this area in the Law of the Sea Conference. Whatever applications of remote sensing by satellites may ultimately be developed, for the time being the monitoring of marine resources and marine pollution will rely primarily on traditional methods.

Mr. MOSHER. I suggest in your response to the chairman's question perhaps you might, in addition to discussing the role of the Coast Guard, you might offer some suggestions there, and have some thought to pushing this a little bit in the convention next year.

Ambassador STEVENSON. I might say in partial response to that question though that I think clearly the majority sentiment at the Conference is that the question of management of coastal fisheries resources can be done better and more efficiently by the coastal state.

Now, you still have the problem of how much that is going to cost.

The majority view is that if you are going to manage and are going to enforce conservation that that can be better done by the coastal state.

Mr. MOSHER. Well, I would think that international satellites which we might operate, would freely give all coastal states valuable information.

Ambassador STEVENSON. I think that is right and, of course, with respect to species that go beyond 200 miles I think there is also I think

understanding that you are going to need something more than one coastal state.

You will have to have some kind of international cooperation and so forth.

Mr. MOSHER. Satellite information can be very useful in pollution control, too.

Ambassador STEVENSON. I agree with you.

Mr. MOSHER. Earlier in your remarks I think you said there was general agreement that the treaty, eventual treaty that is, the details should include an obligation to share for each nation a modest portion of the fruits and I understood you to mean of the seabed exploitation.

Now, can you expand on that? To what degree is there general agreement to that general principle and how would that be administered, the share for each nation?

How will this be collected and administered?

Would it be through an international licensing arrangement?

Would the authority police it?

Would there be sanctions?

What is the general idea there?

Ambassador STEVENSON. I think that in order to appreciate this particular proposal I should point out that one of the critical issues in the economic zone negotiation relates to the question of whether the economic zone for all purposes including jurisdiction over seabed resources should stop at 200 miles when the continental margin, the submerged continental land mass, extends beyond 200 miles.

A number of countries with extensive continental margins, Argentina, the United Kingdom, Australia, Canada, feel that under existing law they already have rights in the continental margin beyond 200 miles and they very strongly want their seabed resource jurisdiction, which in this area relates primarily to oil and gas, to extend beyond 200 miles.

On the other hand, the African countries and a large number of the land-locked and shelf-locked countries who would like to keep as much for the international community as they can have favored stopping at 200 miles.

To answer your specific question there has been very limited support for this concept of revenue sharing, although a number of countries that previously did not favor it think that this may be a way of getting some agreement on this problem of coastal state control over the margin beyond 200 miles; that the coastal states at the same time they get that jurisdiction should be asked to make modest contributions to the international community and also something that could be used for landlocked countries.

There are a large number of landlocked countries at this conference and they have been urging an even more extreme proposal from the standpoint of the coastal states.

They have been saying that with respect to the seabed resources of the continental margin of the countries that they adjoin that they should have equal rights.

Now, many of the coastal states have said well, we are willing to consider that as far as fisheries are concerned, but we will not let you share in our continental margin.

Here again, the concept of revenue sharing may be a way of maintaining the coastal states' control over the resources and over the

products yet satisfying the land-locked and shelf-locked countries. This may be a way of solving this problem about whether you go beyond 200 miles or not.

Mr. MOSHER. Mr. Ambassador then I was mistaken when I thought I heard you cite a general agreement for this revenue sharing principle as progress.

Ambassador STEVENSON. By no means. As of today I think you would have to say that the coastal states with some exceptions have opposed it.

Mr. MOSHER. And then there is the matter if it was adopted, who would administer any such program?

Ambassador STEVENSON. Well, there again, Mr. Mosher, because the general concept has not been accepted there has not really been very much negotiation of the details.

I think it has been suggested that because of the differences between socialist and capitalist economies, that one way of doing it would be to have a percentage, a modest percentage of the value of the product and that would probably be the most practical way to do it, but this issue really has not been addressed in any depth at all.

Mr. MOSHER. I misread your earlier remarks then. Just one more question, Madam Chairman.

I believe you said that the U.S. position on the 200-mile concept is now in the mainstream of the Conference.

That surprises me a little bit because I had the distinct impression that many of the nations of Africa and South America particularly, object to many of the details; they disagree with our position quite vigorously, particularly their desire for a much greater unilateral control as distinguished from our position.

Is this true? Are you really in the mainstream in this?

Ambassador STEVENSON. Your impression is substantially correct.

The point is, however, that until the United States and the Soviet Union accepted the concept of a 200-mile limit most of the negotiation and discussion dealt with that limit.

The United States has maintained all along that the question of the content of the zone was really more important than the precise limit, but until we got to the stage where these important countries as well as up to 100 other countries agreed that the limit was going to be 200 miles we never really got down to this other critical question.

Now, I think that this question of what limitations within that economic zone there will be on the coastal state and how far its jurisdiction extends is really the very heart of the negotiation.

I do not think there is a monolithic position even among, say, the African states. Well, some of them have, for example, opposed the concept of full utilization. They have not wanted to accept any duty to admit foreign fishermen if they were not fully utilizing the fishery. They will say their own economic interest will force them to do so.

There have been other developing countries that very much want the concept of full utilization and they feel it will be in their interest.

I think really it is too early to predict where the voting majorities would come out on this, but I think they are now dealing with that issue and I think it is a very critical issue.

The CHAIRMAN. Mr. Mosher, I will have to ask you to cut it short.

Mr. MOSHER. Just one comment. By accepting the 200-mile limit we have stepped into the stream, but that stream is boiling very vigorously because of the quarrels over the details, is that true?

Ambassador STEVENSON. Well, I think that the fine print as most lawyers realize is frequently the most difficult thing but we are at the fine print at last and so I think that is progress.

Mr. MOSHER. I am sorry I took over my time, Madam Chairman.

The CHAIRMAN. Mr. Ambassador, the other members have been anxious to question you and they feel that your entire testimony has been really against a 200-mile limit and they do want to question you.

I cannot be back this afternoon. We are going to have a ceremony that starts at 12:30. It may last an hour. We are not sure.

Mr. Clark has said that he could chair the meeting this afternoon at 2. Would you be available to come back so that the other members can question you?

Ambassador STEVENSON. I will certainly come back.

On the 200-mile limit I, of course, publicly endorsed a 200-mile limit internationally arrived at in Caracas. I am very much in favor of that as part of the treaty package.

The CHAIRMAN. The Senate is in the process of passing a bill so we hear from day to day.

Ambassador STEVENSON. That, of course is a unilateral bill which I am very much opposed to.

The CHAIRMAN. The members here who are in the coastal areas where a lot of fishing goes on feel they must question you so when we do leave at 11:45 we will reconvene at 2 o'clock.

Mr. KYROS. Madam Chairman, there will be a need at this time I think to question Professor Moore.

The CHAIRMAN. He will come back but we cannot get through with all the questioning and quickly shut off Mr. Moore.

Mr. KYROS. I meant at 2 o'clock.

The CHAIRMAN. If he can come back but I think we can question the two of them together at one time.

Mr. Clark?

Mr. CLARK. Thank you, Madam Chairman.

Mr. Ambassador, during the closing week of the Conference, officials and national representatives made statements which appear to be somewhat at variance with your optimism for an early treaty.

For instance, President Amerasinghe was quoted as saying that as many as three more sessions might be needed in order to obtain a treaty.

He further states, "I am convinced, given the best will in the world, it will be physically impossible for us to finish the drafting of the treaty by the end of the spring session in 1975.

Other delegates were quoted as saying publicly that the Conference had achieved the expected, and at the same time privately expressing disappointment at the slow progress and the gulf between the positions of the industrial and developing countries.

The Tanzania representative was quoted as saying that "we certainly came expecting to achieve more than we have."

Finally, the Canadian representative, J. Alan Beesley, was quoted as saying, "I think we will be fortunate indeed if we get everything done in 8 weeks. We must not create expectations that will cause people once again to say the Conference was a failure if we haven't completed everything in 8 weeks."

Could you comment on these various statements?

Ambassador STEVENSON. Yes, Mr. Clark. I think that a number of those statements originated when the Conference and its general committee were considering the schedule for next year and a number of delegations, including initially the Canadian delegation and the Chairman of the Conference felt that we should schedule two substantive sessions next year because that would probably be necessary to do the job.

However, this was very strongly opposed by a number of delegations, particularly the African delegations, who I think are as eager if not more eager than any countries to finish promptly because they attributed the failure to move more quickly last summer to the fact that with two sessions scheduled governments simply would not instruct their delegations at the first session to do anything more than to conduct preliminary negotiations. As I indicated, the formula they came up with was scheduling an 8 weeks session in March but with the expectation that if more work is needed it can be undertaken in the summer period. I think that was what the chairman was saying that he thought that one 8-week session would not do it but I think this is by no means a statement that we will not finish in 1975.

I think there are a number of other delegations who I think feel as we do, that it is not a question of an option when to finish, that this next year may well be our last opportunity, so that the talk of this going on for 2, or 3, or 4 years just is not realistic.

Mr. CLARK. Do you believe, from your personal observation, that the instructions under which various delegations were operating were sufficiently flexible to permit real negotiations at Caracas?

Ambassador STEVENSON. In the case of most delegations, I would say no.

Mr. CLARK. Thank you.

Mr. KYROS. Mr. Clark would you yield for one question of your time?

The CHAIRMAN. He has had his 5 minutes. We cannot do that, without putting Mr. Grover on the spot.

Do you want to yield, Mr. Grover?

Mr. GROVER. I will, Madam Chairman, after I have asked one or two questions I will be pleased to yield to the gentleman.

Mr. Ambassador, did not the United States assert sovereignty over the seabed of the Continental Shelf during the Truman administration and what is the present status of our sovereign rights in the Continental Shelf?

Ambassador STEVENSON. You are quite right. The Truman declaration was an assestion of sovereign rights for the purpose of exploiting the seabed of the Continental Shelf.

Now, at the time that statement was issued the executive branch issued a press release indicating that they were talking about the area out to 200 meters.

As a result of the Truman declaration a number of other states made assertions of jurisdiction, a number of which were not limited to jurisdiction for purpose of exploiting the seabed resources and a number of which in the case of countries that did not have a continental margin related to asserting economic jurisdiction over the waters above.

Mr. GROVER. May I interrupt at that point.

I merely wanted to make this point, that our Continental Shelf goes out to some 300 miles. Thus, in effect, we will be ceding to the international community our jurisdiction for that purpose, for that excess of our Continental Shelf on the Atlantic coast. Is that correct?

Ambassador STEVENSON. After the Truman declaration in 1958 there was agreement on the Continental Shelf Convention which is basically what most countries are now relying on which talks about sovereign rights for purposes of exploiting out to a depth of 200 meters or beyond as far as exploitation is possible within adjacent areas.

Now, there have been disagreements as to how far beyond 200 meters you would go with respectable authority on both sides of this issue; countries that are claiming the edge of the margin rely not only on the 1958 convention but also on a decision by the International Court of Justice which has language indicating that the submerged continental margin area is a prolongation of the land.

I think clearly from the standpoint of those who feel that countries already have sovereign rights in the seabed to the edge of the margin that to the extent you do not go to the edge of the margin, to the extent you stop at 200 miles, you would be giving up your legal right.

Now, others say you do not have that legal right. I do not think it has been conclusively resolved.

Mr. GROVER. Should there be oil and energy resources at the 201-mile limit, it would go to the international community, would it not?

Ambassador STEVENSON. If you stopped at 200 miles and, of course that is one of the other arguments that you should have a single administration for that particular resource.

Mr. GROVER. Now, I have one other area I wanted to make a point on.

It seems to me that through your testimony and your statement it is indicated that the recent agreement on the fisheries zone was the least of your problems and that the administration of the nonliving resources was the greater problem.

Now, should you not reach agreement next year, and I think that is entirely possible, would consideration be given to severance of the fisheries zone problem from the other major problem?

Ambassador STEVENSON. Let me clarify. You are quite right that in terms of where the negotiations are at the present stage our position on fisheries and the question of giving the coastal state effective control over fisheries is much more generally supported than our position on the deep seabed.

On the other hand, I was not in my statement addressing the question of unilateral action in either area.

What the effect of that would be on the negotiations is a separate question.

Mr. GROVER. If you cannot reach agreement on minerals an the hard resources, is there a possibility of a severing that particular issue in order to reach an international agreement strictly on the fishery zones?

Ambassador STEVENSON. I think the difficulty with that is that a large number of countries regard these negotiations as requiring a comprehensive treaty.

As a matter of fact, the initial U.S. position 5 years ago was to deal separately with the territorial sea and fisheries and the seabed.

We talked about dealing with the oceans problem in manageable packages and that we would make much more progress. We had no support for that.

I think the developing countries would resist very strongly an attempt to deal with the fisheries and territorial sea without dealing with the seabed at the same time.

Mr. GROVER. Madam Chairman, may I yield my last 30 seconds to Mr. Kyros?

The CHAIRMAN. Just to ask the question and we will not have Mr. Stevenson answer them now because it is almost time to recess.

Mr. KYROS. Thank you, Madam Chairman. That you, very graciously.

Mr. Stevenson, you can answer this question in the afternoon.

In light of all the effort you have made and the representation you have mounted in Caracas and the conferences yet to be held, you would like to ask a question regarding the simple cost of government.

Can you tell me this afternoon how much money was needed to have you all represent us in Caracas last summer?

The CHAIRMAN. Is that the question?

Mr. KYROS. Yes.

The CHAIRMAN. Mr. Downing?

Mr. DOWNING. Thank you, Madam Chairman.

Mr. Ambassador, good to see you again. I had the privilege and pleasure of observing our delegation at the Seabed Committee session in Geneva last year and I was thoroughly impressed and proud of the U.S. delegation. You are both competent, confident, and capable and I came away with that feeling.

I understand that many of you took your children down to Caracas this summer and one astute observer wryly opined that perhaps you were training them to take over in the future.

As you know, I am primarily interested in two issues, the 200-mile limit and deep seabed mining.

Approximately how many of the nations attending the conference endorsed the concept of a 200-mile economic zone?

Ambassador STEVENSON. Approximately 100.

Mr. DOWNING. Would you not agree that this country is going to have to go to the 200-mile limit one way or the other in the foreseeable future, either by conference or by unilateral action?

Ambassador STEVENSON. Well certainly, there is tremendous support for greater coastal state control over living and nonliving resources out to 200 miles.

I think that the issue of whether that is done unilaterally or internationally is a critical issue, not so much in terms of those resources, however.

Probably, if we do not get agreement, these particular interests, namely, control over our coastal fisheries and the oil and gas of the continental margin we will get; and most other coastal states will also. The cost I think will be largely in terms of other interests.

Protection of navigational freedoms in the economic zone in order to protect our merchant fleet and also our strategic mobility and protection for such other activities as we would like to carry on in other countries' economic zones, such as our own distant water fishermen having the right, if the coastal state itself is not fully utilizing the resources, to be able to fish subject to conservation requirements.

That would undoubtedly go by the board, Mr. Downing. I think it would also be very, very difficult to get agreement, if we are acting unilaterally, on the part of the Japanese and the Danes to stop catching our salmon in the middle of the ocean.

I also think that as far as the deep seabed is concerned, while granted our technology will give us a tremendous advantage, that the basic thing that most miners like to get, which is exclusive rights, we could not get. You then would have the problem which different people can reasonably assess in different ways of the extent to which there would be interference with our interests in the deep seabed beyond 200 miles.

While I agree that coastal state control over resources out to 200 miles clearly seems to be in the cards, it makes a critical difference whether we arrive at that by a series of unilateral assertions of claims in which other interests are in no respect taken into account and there is no provision for compulsory settlement of disputes or if this is done by a carefully negotiated treaty where these other interests are also taken into account.

Mr. DOWNING. Did I understand you to say you thought this country would go to a 200-mile limit one way or the other?

Ambassador STEVENSON. What I said is I think there is tremendous support internationally for increased coastal state jurisdiction out to 200 miles.

What this country does is up to you gentlemen in the Congress if the President agrees with you and I do not want to make a prediction on that.

Mr. DOWNING. Would it not serve the best interests of the international community if this country adopted a model 200 economic zone and would it not then be a catalyst to the rest of the world to get moving?

Ambassador STEVENSON. I think, Mr. Downing, that the critical difficulty here is the unilateral approach.

As I said earlier the present proposed fisheries legislation in its substance comes very, very close to what the U.S. position is; in other words, everything virtually that is in that bill we would like if it were part of an international treaty, but the trouble is that if you go the unilateral route and depart from what international law presently permits how are we to say that someone else that unilaterally does something we do not like, that does not include these provisions say for full utilization of the fisheries, that does not protect navigation, how are we in position to object to the 200-mile territorial sea being adopted unilaterally if we ourselves are taking unilateral action to impose the 200-mile fisheries zone that we like?

I also think that inevitably you would have much more difficulty getting countries like Japan and the Soviet Union to accept this jurisdiction then if they agreed to it, as at least the Soviet Union has indicated they would do, via an international treaty.

Mr. DOWNING. But you understand this legislation if adopted would only be interim legislation effective until the international community resolves these issues?

Ambassador STEVENSON. Well, I think that certainly helps, but I think the trouble is that we could not expect other countries to necessarily follow that same approach and I think, furthermore, from an

international law standpoint once we have gone beyond even though on an interim basis what international law presently allows, we are in a very poor position to urge other countries not to take unilateral action.

We have up until now I think been very much in the leadership role in suggesting that other countries act responsibly and try to work this out internationally.

I think if we go unilateral it really cuts the ground out from under that approach.

Mr. DOWNING. You have urged us to be patient over the years and I think we have been patient, but now over 158 Members of the House have cosponsored legislation proposing the 200-mile limit.

Suppose this was not effective until after the conclusion of the Geneva Conference. Would it still have a deleterious effect in your opinion of an international resentment of the matter?

Ambassador STEVENSON. Well, I think obviously different changes in the legislation can have different effects.

Obviously, if it is not effective it is not present unilateral action. On the other hand I think the problem with that is that it is viewed by some as a threat and there are a number of countries that say if threats are made, we will respond by our own action in areas where it will hurt you.

I mean they all know that we have very great interest in navigation particularly the question of transit through straits.

I think there are many areas that I mentioned earlier where they can retaliate. I think that is a judgment question.

I do appreciate your point about patience and I think to take the problems of our coastal fishermen facing depletion of these fisheries and the interests of our deep sea miners with the technology and wanting to move ahead these must be taken into account. I do not think that this can go on indefinitely but I must also say that I think next year is a very critical year and I am very reluctant to see anything happen that will make it more difficult to maximize on that opportunity next year.

It is going to be very tough to get a treaty next year but I think next year is our best opportunity to do it.

Mr. DOWNING (presiding). I have used my 5 minutes without getting to the point I wanted to make.

Now I would like to recognize Mr. Forsythe.

Mr. FORSYTHE. We are going to recess at 11:45?

Mr. DOWNING. Well, the Chairman was going to recess at 11:45.

Mr. FORSYTHE. I yield to Mr. Cohen.

Mr. COHEN. Mr. Ambassador, I would like to ask you a couple of questions not pertaining so much to your testimony but to the witness who will follow, Mr. Moore.

I looked at Mr. Moore's statement. He talked about sending a letter to Senator Magnuson, about the increased effective enforcement measures that we are taking.

How in the world can you justify giving a 90-day grace period to those countries who are presently violating the existing bilateral treaties that we now have?

How can you justify that?

Ambassador STEVENSON. I am not sure I understand you completely.

Mr. COHEN. Do you have a copy of his testimony? If you do not, I will see that you get a copy.

Ambassador STEVENSON. I think so.

Mr. COHEN. Let me read it to you.

Because of their potentially severe impact on foreign nations fishing over our Continental Shelf, these far-reaching new measures will go into effect only on December 5, 1974, after a 90-day grace period to enable affected nations to adjust their fishing methods or to conclude agreements further protecting our living resources.

Now, this committee has traveled around various parts of the country listening to testimony from fishermen and one consistent theme that seems to be coming through is that these foreign nations have been violating existing agreements with the size of their nets and the mesh and so forth not being enforced and now we are going to adopt new, far-reaching measures to go into effect 90 days from now to give these nations an opportunity to adjust to it.

I want to know how you justify that to the American fishermen.

Ambassador STEVENSON. You have two separate questions; one is the enforcement of the bilateral agreements and I certainly agree that enforcement of those agreements should be pushed to the maximum.

I think what Professor Moore was talking about, though, was in addition to the obligations under existing bilateral agreements that we were going to impose under the provisions of the Continental Shelf Convention, certain additional requirements and we would seek to negotiate further bilaterals with those countries as to the means of implementing them and, therefore, the 90-day period would serve to give us the opportunity to perhaps get more effective bilaterals.

Now, you are quite right the bilaterals themselves are not any good if we do not enforce them, but I think it is implicit in what he said and I heard some of his earlier testimony that the Coast Guard will enforce not only the existing bilaterals, but any new bilaterals that come out of these negotiations as well as taking the additional enforcement action contemplated in his letter to Senator Magnuson.

Mr. DOWNING. Will the gentleman suspend?

The Chair has just learned that the members are supposed to be on the floor now so under these circumstances will you continue your questioning at 2 this afternoon?

Mr. COHEN. Yes.

Mr. DOWNING. The committee will adjourn to meet again at 2 this afternoon.

[Whereupon, at 11:50 a.m., the committee recessed, to reconvene at 2 p.m. of the same day.]

AFTERNOON SESSION

Mr. CLARK [presiding]. The committee will please come to order.

When we left off this morning Ambassador Stevenson was testifying and a lot of questions were asked during the latter part of the meeting that should have been going to Mr. Moore.

I am going to ask Prof. John Norton Moore, the Chairman of the National Security Council Interagency Task Force on the Law of the Sea, and the Deputy Special Representative of the President for the Law of the Sea Conference to come to the witness table and give his statement and then we will have questions for both of you.

John if you will, you may start your statement and give the names of those accompanying you.

STATEMENT OF HON. JOHN NORTON MOORE, CHAIRMAN, THE NATIONAL SECURITY COUNCIL INTERAGENCY TASK FORCE ON THE LAW OF THE SEA AND DEPUTY SPECIAL ASSISTANT OF THE PRESIDENT FOR THE LAW OF THE SEA CONFERENCE, ACCOMPANIED BY AMBASSADOR JOHN R. STEVENSON, SPECIAL REPRESENTATIVE OF THE PRESIDENT FOR THE LAW OF THE SEA CONFERENCE, DEPARTMENT OF STATE; CAPT. PHILLIP A. HOGUE, DEPUTY CHIEF, OFFICE OF OPERATIONS, U.S. COAST GUARD; AND COMDR. JOHN B. LYNN, CHIEF, MARITIME LAWS AND TREATIES BRANCH, U.S. COAST GUARD

Mr. MOORE. Thank you, Mr. Chairman, for your great assistance and that of Congresswoman Sullivan and the other members of this committee and staff who have provided very great help to the Law of the Sea Delegation during these negotiations for the Law of the Sea Conference.

I would also very much like to thank Congresswoman Sullivan for her very kind remarks this morning.

I am accompanied this afternoon by a number of persons from the executive branch who are experts on particular questions that might be raised.

On my immediate right is the Honorable Howard Pollock, the Deputy Administrator of the National Oceanic and Atmospheric Administration.

Mr. CLARK. John, if you do not mind I would like to say I am happy to see Howard here and I know up on the Hill he is regarded as one of the greatest.

Mr. POLLOCK. Thank you, Mr. Chairman. You are very kind.

Mr. MOORE. We thought the best defense today, Mr. Chairman, was to bring along one of your own.

We also have with us Mr. William Sullivan, the Acting Coordinator of Ocean Affairs of the Department of State as well as Capt. Philip A. Hogue and Comdr. John B. Lynn of the Coast Guard to respond to some of the questions concerning enforcement and enforcement studies.

Like Ambassador Stevenson, I have prepared remarks today but I would prefer with your consent, Mr. Chairman, to merely place those in the record and to discuss the issues informally with this committee.

Mr. CLARK. If there is no objection, the subject matter will be put into the record in its entirety at this point.

[The full prepared statement of Mr. Moore follows:]

STATEMENT BY HON. JOHN NORTON MOORE, CHAIRMAN OF THE NATIONAL SECURITY COUNCIL INTERAGENCY TASK FORCE ON THE LAW OF THE SEA AND DEPUTY SPECIAL REPRESENTATIVE OF THE PRESIDENT FOR THE LAW OF THE SEA CONFERENCE

Madam Chairman, it is a particular pleasure to appear before this Committee to discuss the Third United Nations Conference on the Law of the Sea and measures to protect United States fisheries. In doing so, I am conscious that the choices which must be made by this Committee are of fundamental importance to United States oceans policy. A number of bills being considered by this Committee raise

questions deeply affecting the foreign relations of the Nation as well as our fishery and other oceans interests. They also pose a stark choice for our policy toward an area covering more than two-thirds of the surface of the earth. Is United States oceans policy to be pursued through cooperative efforts at international agreement? Or is it to be pursued through unilateral assertions of jurisdiction risking an irreversible pattern of conflicting national claims?

In meeting with this Committee, I am appreciative of the outstanding service the Chairman and members of this Committee have continually rendered to the Nation in fishery and other ocean matters. I am also appreciative of the very real threats to coastal and anadromous species off our coasts. This increased pressure is part of a global trend which in the absence of an adequate international legal framework for fisheries jurisdiction has in many areas led to over-exploitation. The depletion of the haddock stock off our Atlantic coast and the halibut stock off our Pacific Northwest are examples.

The principal problem in the present pattern of international fisheries jurisdiction is that management jurisdiction does not generally coincide with the range of the stocks. As such, any effort at sound management and conservation confronts the classic "common pool problem" similar to that experienced in the early days of the east Texas oil fields. That is, in the absence of agreement, it is not in the interest of any producer acting alone to conserve the resource. The solution to this common pool problem in fisheries is broadly based international agreement providing coastal states with management jurisdiction over coastal and anadromous species with highly migratory species managed by appropriate regional or international organizations.

For the first time in the history of oceans law, it is realistic to expect such a broadly based agreement covering fisheries jurisdiction. After lengthy preparatory work in the United Nations Seabed Committee, the Third United Nations Conference on the Law of the Sea has completed its first substantive session held in Caracas, Venezuela from June 20 to August 29. If other issues are satisfactorily resolved, the Conference offers every promise of providing the jurisdictional framework for solving our coastal and anadromous fisheries problems.

The strong trend in the Conference is for acceptance of a 200-mile economic zone providing coastal states with jurisdiction over coastal fisheries in a 200-mile area off their coast. There is also considerable support for host state control of anadromous species and growing support for special provisions on international and regional management of highly migratory species. In this connection, the United States Delegation has indicated that we can accept and indeed would welcome agreement on the 200-mile economic zone as part of a satisfactory overall treaty which also protects our other oceans interests, including unimpeded transit of straits used for international navigation.

It is also realistic to expect such a broadly based oceans treaty in the near future. The General Assembly Resolution which established the Law of the Sea Conference provided that any subsequent session or sessions necessary after the Caracas session would be held no later than 1975. Pursuant to this schedule, the Caracas session of the Conference agreed on a second session to be held in Geneva from March 17 to May 3–10, 1975. It also agreed that the formal signing session will take place in Caracas, with July and August 1975 discussed in this regard. We believe that it is important to adhere to this Conference schedule.

Even on this schedule, it is, of course, also important that we prevent further depletion of coastal and anadromous stocks off our coasts before the new Law of the Sea Treaty comes into force. We are taking a number of important steps to meet this need.

First, we have strengthened both bilateral and multilateral agreements with nations whose nationals conduct fishing operations off our coast. In the northwest Atlantic Ocean, for example, we have this year instituted for the first time a comprehensive management regime for the entire biomass in the region off the United States coast. This involves quotas allocated nationally for each individual species or group as well as overall quotas for all fish in this region, coupled with a series of additional conservation measures such as closed areas and seasons and gear restrictions. These new measures also take into account economic problems facing American fishermen. While there are problems in implementation associated with the introduction of such a new and far-reaching management system, we believe that significant progress has been made in the northwest Atlantic.

In addition, we have bilateral fisheries agreements with several countries for this region as well as for the areas off our Pacific coast and Alaska. The United States is actively pursuing conservation initiatives in all the fisheries commissions of

which we are members to encourage further steps that can be taken to control fishing in a rational manner and remedy overfishing where that has been experienced.

Within the next two months meetings for this purpose will be held by the Inter-American Tropical Tuna Commission, the International North Pacific Fisheries Commission, the International Commission for the Northwest Atlantic Fisheries, and the International Commission for the Conservation of Atlantic Tunas. Bilateral discussions or renegotiations of existing agreements will also be held starting in November and extending into early 1975. We expect these multilateral and bilateral meetings to achieve greater conservation of the resources off the coasts of the United States and a more rational and equitable regime for American fishermen in all of the areas involved. In this regard, we intend to maintain that, at the least, the relevant principles regarding conservation and allocations to protect coastal State fishermen enunciated by the International Court of Justice in the Iceland Fisheries Cases should be applied in these new agreements.

For the information of the Committee, I am submitting for the record a more detailed report prepared by the National Marine Fisheries Service on the present condition of the coastal and anadromous stocks off our coasts and efforts to provide increased interim protection to those stocks. I am accompanied by the Honorable Howard Pollock, Deputy Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce and Mr. William Sullivan, Acting Coordinator of Ocean Affairs, Department of State, who are prepared to answer questions on these and future efforts to protect the coastal and anadromous stocks off our coasts in the interim period before a new Law of the Sea Treaty is signed.

Second, we have proposed that the fisheries as well as deep seabed provisions of the new Law of the Sea Treaty should be applied on a provisional basis. That is, they should be applied after signature of the new treaty but before waiting for the process of ratification to bring the treaty into full legal effect. Provisional application is a recognized concept of international law and our proposal was favorably received in the Law of the Sea negotiations. We will, of course, consult closely with the Congress as to how provisional application should be effectuated and in doing so will shortly consult with this Committee.

Third, we recently announced and have notified potentially affected nations of tough new enforcement measures to provide increased protection for the stocks off our coasts until the new Law of the Sea Treaty can be fully applied. These new enforcement procedures will substantially tighten our control over the incidental catch of living resources from the United States continental shelf. For the first time, they permit boarding of foreign fishing vessels using bottom gear (including bottom tending trawls) which would normally result in the catch of living resources of the U.S. continental shelf. In addition, they will require all nations whose vessels use such gear to enter into agreements with the United States for the protection of the living resources of our continental shelf. By controlling bottom trawling, these new agreements for the protection of our continental shelf fishery resources should aslo have real benefit for the protection of other stocks, such as haddock, halibut, Alaska pollock, and yellowtail flounder.

Attached is the letter to Senator Magnuson setting out the new enforcement measures. Because of their potentially severe impact on foreign nations fishing over our continental shelf, these far-raeching new measures will go into effect only on December 5, 1974, after a 90-day grace period to enable affected nations to adjust their fishing methods or to conclude agreements further protecting our living resources.

These new procedures will provide substantial increased protection to our valuable living resources. We believe that they are entirely justified by existing international law and that jurisdiction over the living resources of the continental shelf carries with it the right to require other states to enter into agreements for the protection of such resources if they are taken during fishing for non-shelf stocks as well as if the taking of such shelf resources is intentional.

Fourth, an expanded enforcement effort such as that envisaged in the plan recently submitted by the Coast Guard to the Coast Guard Subcommittee would, if adopted, also help ensure compliance with existing regulations and assist in the transition from the present limited fisheries jurisdiction to the broader jurisdiction which would result from a successful Law of the Sea Conference. I am accompanied by Captain Philip A. Hogue, Deputy Chief, Office of Operations, United States Coast Guard.

Finally, the Executive Branch is studying appropriate legislation to provide compensation for fishermen whose gear is damaged off our coasts by the factions

of a foreign fishing vessel or its crew. Any legislation would of course structure the mechanism by which compenastion is provided to assure that only legitimate claims are compensated.

These interim measures, taken together, should provide substantial additional protection of the fishery stocks off our coasts until a new Law of the Sea Treaty can be concluded. At the same time, the Executive Branch is strongly opposed to the enactment of legislation such as H.R. 8665 which would unilaterally extend the United States fisheries contiguous zone from 12 to 200 miles in a mistaken effort to respond to our interim problems. Enactment of this legislation would not satisfactorily resolve our fisheries problems, would at most merely anticipate a result likely to emerge in a matter of months from a successful Law of the Sea Conference, and would be seriously harmful to United States fishery and oceans interests in at least seven principal ways.

First, unilateral action extending national jurisdiction in the oceans is harmful to overall United States oceans interests and as such we have consistently protested any extension of fishery or other jurisdiction beyond recognized limits. A unilateral extension of jurisdiction for one purpose will not always be met by a similar extension but rather may encourage broader claims which could have serious implications, for example, with respect to our energy needs in transportation of hydrocarbons, our defense and national security interests in the unimpeded movement of vessels and aircraft on the world's oceans, or our interest in the protection of marine scientific research rights in the oceans. Because of our broad range of oceans interests and our leadersihp role in the world, an example of unilateral action by the United States would have a particularly severe impact upon the international community which could quickly lead to a crazy quilt of uncontrolled national claims.

Indeed it was the threat of just such a result with its open-ended invitation to conflicts and pressures on vital U.S. interests that led to a decision in two prior Administrations, at the highest level of Government, that U.S. oceans interests and the stability of the world community would best be served by a broadly supported international agreement. This Administration strongly agrees with that judgment. Soundings from our embassies and at the Caracas session of the Law of the Sea Conference indicate that the possibility of unilateral claims by others is not merely an abstract concern should this legislation pass. This Committee, with its interest in the merchant marine and oceans research interests of the United States, knows well the great threat posed to these interests should unilateralism overtake our ability to reach a comprehensive oceans agreement.

Second, enactment of legislation such as H.R. 8665 could be seriously damaging to important foreign policy objectives of the United States. Unilateral extension of our fisheries jurisdiction could place the Nation in a confrontation with the Soviet Union, Japan, and other distant water fishing nations fishing off our coasts. These nations strongly maintain the right to fish in high seas areas and are unlikely to acquiesce in unilateral claims, particularly during the course of sensitive law of the sea negotiations in which they have substantial interests at stake. The implications for detente and our relations with Japan are evident. In fact, both the Soviet Union and Japan have already expressed serious concern over this legislation to our principal negotiators at the Law of the Sea Conference.

Similarly, unilateral extension of our fisheries jurisdiction coupled with reliance on the Fisherman's Protective Act to protect threatened distant water fishing interests of the United States seem certain to assure continuation of disputes with other coastal states off whose coasts our nationals fish.

It is strongly in the national interest to encourage cooperative solutions to oceans problems rather than a pattern of competing national claims. A widely agreed comprehensive Law of the Sea Treaty will promote development of ocean uses and will reduce the chances of ocean disputes leading to conflict among nations. If these interests seem too theoretical, we might recall the recent "Cod War" between the United Kingdom and Iceland which resulted from a more modest Icelandic claim of a 50-mile fisheries contiguous zone.

Third, a unilateral extension of our fisheries contiguous zone from 12 to 200 miles would not be compatible with existing international law, and particularly with the Convention on the High Seas to which the United States and forty-five other nations are party. The United States has consistently protested any extension of fisheries jurisdiction beyond 12 miles as a violation of international law. And the International Court of Justice held only last month in two cases arising from the "Cod War" that the 50-mile unilateral extension of fisheries jurisdiction by Iceland was not consistent with the rights of the United Kingdom and the Federal Republic of Germany.

Madam Chairman, what would we do if this bill were to become law and another country brings us before the International Court of Justice? Would we invoke our reservation and maintain that issues relating to the use of the seas up to 200 miles from our coast, or even hundreds of miles beyond this in the case of salmon, are exclusively within our domestic jurisdiction? Or would we respond on the merits and risk losing what we are certain to get from a widely accepted Law of the Sea Treaty?

As this Committee well knows, violation of our international legal obligations by encroaching on existing high seas freedoms can be seriously detrimental to a variety of oceans interests dependent on maintenance of shared community freedoms in the high seas. The appropriate way to change these obligations in order to deal with the new circumstances is by agreement. It is particularly inappropriate to argue that a unilateral act contrary to these obligations is required by such circumstances when a widely supported agreement that resolves the problem is nearing completion.

Fourth, a unilateral extension of our fisheries jurisdiction would pose serious risks for our fisheries interests. Protection of the coastal and anadromous stocks off our coasts can only be achieved with the agreement of the states participating in the harvesting of those stocks. Unilateral action not only fails to achieve such agreement but it poses serious risks to existing fishery agreements and efforts to resolve the problem on a more lasting basis with such countries. Similarly, protection of our interests in fishing for highly migratory species such as tuna or coastal species such as shrimp where US nationals fish off the coasts of other nations can only be achieved through more cooperative solutions.

In short, we cannot expect to achieve acquiescence from states fishing off our coasts, and we will harden the positions of other countries off whose coasts we fish. The resolution of old disputes will be made more difficult and their costs to our fishermen and our Government will continue. At the same time we will face new disputes off our own coasts and elsewhere.

H.R. 8665 would provide others with an opportunity to make unilateral claims damaging to our distant water fishing interests despite any exceptions for highly migratory species or provisions for full utilization written into the legislation. If the United States can make a unilateral claim eliminating the freedom to fish on the high seas, it is difficult to assert that other nations are bound by the exception and provisions contained in our own legislation. Moreover, even by its terms H.R. 8665 would include highly migratory species in the extension of coastal State jurisdiction where such species "are not managed pursuant to bilateral or multilateral fishery agreements." We should keep in our mind that the principal countries with which we have disputes concerning jurisdiction over highly migratory species are not parties to agreements relating to the management of such stocks.

A unilateral extension of fisheries jurisdiction by the United States could also make it more difficult to achieve meaningful guarantees, such as those we are advocating at the Law of the Sea Conference, binding on all nations for the conservation and full utilization of the living resources of the oceans. Moreover, it could make more difficult acceptance of a rational basis for fisheries management; that is, jurisdiction over coastal and anadromous species in the coastal state and jurisdiction over highly migratory species in a regional or international organization. As such, legislation such as H.R. 8665, although intended to protect the fish stocks off our coasts, could, paradoxically, have the opposite effect not only on stocks off our coasts but on fish stocks the world over.

Fifth, passage at this time of legislation such as H.R. 8665 unilaterally extending the fisheries jurisdiction of the United States would seriously undercut the effort of all nations to achieve a comprehensive oceans law treaty. Our Nation has urged particular care and restraint in avoiding new oceans claims during the course of the Third United Nations Conference on the Law of the Sea. A pattern of escalating unilateral claims during the Conference could destroy the delicate fabric of this most promising and difficult negotiation. It could also undermine the essential political compromise by which all nations would agree on a single package treaty. And by unilaterally taking action which we have said must be dependent on a satisfactory overall compromise, it could harm other United States oceans interests such as protection of vital navigational freedoms, marine scientific research, environmental goals, or economic interests such as a regime for deep seabed mining which will promote secure access to the minerals of the deep seabed area. The ultimate tragedy of such legislation is that, though purporting to offer increased protection to our fisheries, it could well destroy forever the only effective opportunity we have had, that is through the ongoing Law of the Sea negotiations, to once and for all resolve our diverse fisheries problems.

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Sixth, any benefits to the fisheries off our coasts which could accrue from a unilateral extension of fisheries jurisdiction to a 200 mile area, and in the case of salmon even beyond 200 miles, should be measured against the cost of the enforcement effort required to police such an area against nations which refuse to accept the claim. Enforcement of fisheries jurisdiction, to be truly effective, must be rooted in general acceptance by the other nations fishing in the area. If not accepted, the cost of full enforcement coverage could be great.

In this connection, it should be noted that a 200 mile limit would add an area of nearly 2.3 million square nautical miles to our fisheries jurisdiction. Such an area is over two-thirds as large as the continental United States and all of its possessions. It should also be noted that this figure of 2.3 million square nautical miles does not include the area around the Virgin Islands, American Samoa, Guam, Wake or Midway.

These principal difficulties with legislation such as H.R. 8665 are in no sense alleviated by its emergency or interim nature. Section 9 of H.R. 8665 provides that the act would expire on such date as the Law of the Sea Treaty comes into force. Unfortunately, however, in the interim period the legislation would be simply a unilateral extension with all of the associated costs of unilateralism and with none of the benefits of a lasting solution. Moreover, this legislation could well prevent the agreement which is expected to supercede it.

I have not sought to discuss the specifics of H.R. 15619 which, because it is intended to be rooted in the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas, is potentially not as objectionable as H.R. 8665. The principal problem with H.R. 15619, of course, is that the most important nations fishing for our coastal and anadromous species, including the Soviet Union and Japan, are not parties to the 1958 Convention. With appropriate changes it is possible that H.R. 15619 or a similar measure rooted in existing international law could be a useful alternative to H.R. 8665 without the grave impact on our overall oceans and foreign relations interests. Accordingly, before commenting further on H.R. 15619 the Executive Branch would welcome an opportunity for further study with the Congress withia view to examining the possibility of changes which might make H.R. 15619 acceptable.

Madam Chairman, this Committee, the Congress, and the Nation are faced with a fundamental choice. Are we to pursue cooperative efforts at solution to our oceans problems even when the going is rough and the pace slower than we would like? Or are we to pursue unilateral policies destined to lead to escalating conflict in the oceans?

Our fisheries interests as well as the overall oceans interests of our Nation all strongly require that we firmly set our course toward cooperative solutions.

Thank you, Madam Chairman.

Mr. CLARK. You may proceed.

Mr. MOORE. Thank you. My remarks this afternoon will supplement Ambassador Stevenson's remarks and focus primarily on the fisheries aspects of the Law of the Sea Conference and the interim measures which may be necessary to fully protect our fish stocks between now and the time we hope to conclude the Law of the Sea Treaty and have it go into legal effect.

In meeting with this committee at this time I do so in the belief that the choice which must be made by this committee is of fundamental importance to U.S. oceans policy.

All of the members of this committee are certainly aware of the dimensions of the fisheries problems that we have.

On the one hand, those problems are characterized by overexploitation of many of the stocks off the coasts of the United States, in many cases by very efficient foreign fleets.

In addition, we find that there are continuing legal disputes with a number of other countries with respect to the distant water fishing interests of the United States, particularly the U.S. tuna fleet.

All of these problems are problems that are not simply those common to the coasts of the United States and our distant water fishermen, but they are global problems.

They are symptoms of structural defects in the law of the sea that plagues all nations today.

Some of the underlying causes of these problems are, first, what might be called the classic "common pool problem," to use an economic term. That is, that we have a resource and throughout the range of the pool of that resource we have neither common ownership in a property sense nor an effective agreement between the participants who are exploiting the resource in that particular pool. We have never had in oceans law and particularly in dealing with the fisheries problem some way of getting jurisdiction or an effective agreement dealing with each of the particular ocean stocks throughout the range of that particular stock.

The consequence is precisely what the economists predict it will be; precisely what it was, to use another domestic analogy, in the case of the east Texas oil field. That is, there is a built-in disincentive to conserve the stock with overexploitation and inefficient utilization.

A second problem which I believe underlies the difficulties that we are having in global fisheries law is the uncertainty of the present juridical situation.

There are a number of challenges to present international law. As you know, present law would basically recognize a 12-mile area of fisheries jurisdiction adjacent to coastal states. Nevertheless, there are a number of states that claim a 200-mile territorial sea, and the result of this legal uncertainty is a great deal of inefficiency and wasted energy.

The solution to these basic problems is a comprehensive Law of the Sea Treaty, that is a new oceans agreement which will place management jurisdiction with respect to coastal species of fish in the coastal states throughout the range of those coastal species. A 200-mile area, the 200-mile economic zone that is being discussed in the negotiations, basically does exactly that. This would place management jurisdiction of the coastal species in the coastal state throughout the range of those species.

With respect to anadromous stocks such as salmon, which range far beyond any territorial sea or even 200-mile area, the Law of the Sea agreement should place the control of these stocks in the host state so that again there can be a unitary solution to the common pool problem in salmon.

The same thing is true with respect to highly migratory species such as the tuna stocks which range widely in the oceans and which do not have any particular connection with any one host state or any one coastal state.

We feel in that case the solution to the common pool problem is a fisheries management regime which would be either international or regional throughout the range of those highly migratory species.

Now, the Law of the Sea Treaty offers substantial promise to resolve both fundamental problems. It can resolve the common pool problem so that we have an effective framework for management of the stocks, and it can solve the problem of uncertainty as to legal claims concerning ocean fisheries.

Mr. Chairman, it is my belief that we are headed toward that comprehensive Law of the Sea Treaty.

The negotiating process, as Ambassador Stevenson has indicated, is a difficult one. It is time-consuming. It is sometimes disappointing, but

nevertheless, based on any overall assessment, we are headed toward agreement on a comprehensive oceans treaty. That agreement can be achieved on the schedule that the U.N. General Assembly has set out if all nations will approach Geneva in a spirit of genuine negotiation.

If the other issues are satisfactorily resolved in that conference, as I believe they can be, there is simply no question that the Law of the Sea Treaty will include broad jurisdiction over coastal species.

The 200-mile economic zone is very strongly supported in the conference. It certainly has the support of almost all coastal states, provided, of course, agreement is reached on the overall treaty, particulary including guarantees for unimpeded transit of straits.

There may be a few states that have not yet accepted the 200-mile economic zone. It does, however, seem to be generally accepted, even by the landlocked, shelf-locked states—though they have some question as to the fine print that might be concerned with their interest.

Now, if in fact the solution to these problems is a comprehensive Law of the Sea Treaty, and if we are headed for a timely agreement, that does not mean that we should in the interim period set aside the genuine interim problems that we have.

We have a number of problems, as members of this committee well know. The fishing pressure is intense on many of the stocks.

In some cases the level of the stocks is very severely depleted.

To meet these problems, the executive branch is taking a number of interim measures until such time as the Law of the Sea Treaty can be brought into full legal effect.

The first of these are bilateral and limited multilateral agreements with the countries that are fishing off our coasts.

Within the last year we have had some success within ICNAF particularly; that is the International Commission for the North Atlantic Fisheries. For the first time we have been able to achieve a management system over the entire biomass of the stocks off the Northwest Atlantic Coast of the United States.

I believe that the agreements that we have in this area and the efforts that we are going to make over the coming months to negotiate tougher protection for our stocks, both in the bilateral agreements—many of which are up for renegotiation—and in the Commissions such as ICNAF in which we are very concerned about the enforcement difficulties we have had on the ICNAF agreement, will offer substantial additional protection to our stocks.

Second, Mr. Chairman, we are concerned with making sure that the new Law of the Sea Treaty can be applied and go into legal effect domestically as soon as the treaty is agreed; that is, as soon as the treaty is signed without waiting for the prolonged period of time that may be necessary before the full number of ratifications are achieved to bring the treaty into legal effect.

To that end we have proposed in the negotiation that the fisheries and deep seabed mining aspects of the new Law of the Sea Treaty should go into effect on a provisional basis.

Our proposal for provisional application has been well received in a forum which has a very strong majority of coastal States, all of whom are also concerned about their fisheries interest in this interim period.

We will shortly be consulting with this committee on the kind of legislation that would be most appropriate to ensure provisional application of the Law of the Sea Treaty as soon as that treaty is signed.

Thirdly, we have recently announced strengthened enforcement measures for the protection of the living resources of the United States Continental Shelf. These are set out in a letter to Senator Magnuson which was sent on September 5.

The new enforcement measures are a very substantial departure from the present enforcement practice and they would do a number of things that we have not been able to do up until the present.

The first of those is that we will be able to begin boarding foreign fishing vessels which are using bottom gear including bottom tending trawls which would normally result in the catch of United States Continental Shelf living resources.

We feel that the ability to more effectively enforce for the protection of our Continental Shelf fishing resources will be greatly enhanced by this ability to go on foreign trawling vessels which are using such gear to determine, in fact, what is happening with the incidental catch and what is happening with those Continental Shelf fishery resources.

Secondly, the new enforcement measures will require all of the foreign governments which are using such gear to enter into agreements with the United States for the protection of our Continental Shelf fishery resources.

Now, in some cases we have agreements already with these countries and it will be a question of a renegotiation to provide further protection for these resources.

In some cases we do not at this time have such agreements. Because of the potentially severe impact of the new enforcement measures we have indicated that they will take effect only after a 90-day grace period in which we will be able to notify the foreign governments and enable them to take such measures as will bring them into compliance with the new procedures.

I might add also that because of their effect on bottom trawling we feel that these necessary measures should provide additional protection as well for certain of our finfish stocks, for example halibut and yellowtail flounder.

Fourthly, we feel that an expanded enforcement effort such as that envisioned in the plan recently submitted by the Coast Guard would, if adopted, help insure compliance not only with the present regulations in this area, but also in a sense in easing the transition to the new jurisdiction expected under the Law of the Sea Treaty.

Finally, Mr. Chairman, we feel that it would help if the administration would take a close look at this question of compensation for fishermen whose gear has been damaged off our coasts by foreign fishing vessels or the crew of such vessels.

As a result we are going to make a study of appropriate legislation in this area which would compensate legitimate claims of our fishermen from that kind of damage to their gear.

Mr. Chairman, we have sought to take a number of actions which we believe will provide substantial additional protection in this interim period, but I think that I must in all candor with this com-

mittee also discuss one other possibility which we do not feel would be helpful to our fisheries interests or to the effort to conclude a Law of the Sea Treaty.

This is an approach that would unilaterally extend the United States fisheries contiguous zone from the present 12 miles to 200 miles without waiting for a treaty.

There are a number of problems that we see in any such approach.

First, we feel that the precedent of the United States which is looked to very strongly for leadership in oceans policy, going unilateral at this time would be extremely harmful to overall U.S. oceans interests.

If the United States is to take unilateral action for the purpose of protecting our fisheries stocks this does not control what other nations will do when they respond with unilateral action designed to protect the particular interest that they may be most concerned about at that time.

We are very concerned in the soundings that we have taken from our embassies on this issue and the discussions we have had with key leaders at the Law of the Sea Conference that in fact unilateral action by the United States such as extension to 200 miles would have a grave implication for triggering unilateral claims by other nations.

Many of these claims would damage very severely other issues and other interests that this committee has before it; for example, the protection of our merchant marine interests, the general navigational interest of the country, our interest in freedom of marine scientific research and a variety of other oceans interests that we feel can only be effectively protected by a comprehensive oceans treaty. On the other hand, a pattern of unilateral claims seems destined through time to lead to 200-mile territorial seas which would very severely threaten free navigation as well as a variety of other important oceans interests.

A second concern which we have with going to 200 miles unilaterally is that we feel that such a move would be seriously damaging to the foreign relations of the United States and could pose a risk of serious confrontation with foreign nations off our coasts such as the Soveit Union, Japan, or a number of other fishing nations.

Lest we dismiss this one completely as an imaginary horrible thing, we should reflect on the events which followed the unilateral extension by Iceland to 50 miles. In the wake of the Icelandic action there were armed confrontations between Icelandic vessels and vessels of the United Kingdom.

In addition, I think we should keep in mind that the Soviet Union, like the United States, is engaged in what is considered one of the most important multilateral negotations in which it has ever been engaged and it would be extremely difficult for the Soviet Union to accept a unilateral claim directly counter to its interests during the course of those negotiations.

Thirdly, Mr. Chairman, we feel that such an approach would be damaging to U.S. fisheries interests.

It would pose a threat to our distant water coastal fishermen such as our fishermen for shrimp that are fishing off a number of Latin American coasts within 200 miles of the coast, and despite the fact that our legislation has the full utilization principle written into it, we feel that if we went unilateral it is unlikely that other states would be willing to include in any unilateral action they may take appropriate

provisions for our distant water fishing interests and the full utilization principle.

Similarly, we feel that with respect to highly migratory species, the tuna stocks, in which many of our fishermen fish within 200 miles of the coasts of other states, that we would be seriously endangering the ability of those fishermen to continue. Again it would be very difficult to expect that unilateral actions in those cases would have carefully built-in provisions protecting highly migratory species and seeking a more rational management regime throughout the range of those stocks.

With respect to our coastal and our salmon fishing interests we are also very concerned that a pattern of unilateral action at this time could, in fact, lead other nations to drag their heels in the negotiations we are now conducting to further protect the stocks off our coasts or in some cases possibly to abrogate existing agreements which we have made with those governments.

If that were to happen, of course, we could lose some of the protection which has already been achieved with respect to our coastal and our salmon stocks.

We also feel with respect to our fisheries interests that unilateral action by the United States to 200 miles could threaten our ability to achieve an important environmental obligation that would apply to all coastal states; that is, that there would not be a management regime which would permit utilization exceeding maximum sustainable yield.

That kind of provision is one that is being considered in the Law of the Sea negotiations but if coastal states see that they can merely extend their jurisdiction and get the kind of control they would like by unilateral claims without the necessity of agreement, then this may well undercut our ability to obtain good environmental controls protecting fish stocks worldwide and insuring full utilization of those stocks.

Fourth, Mr. Chairman, we are concerned that a unilateral extension by the United States from the present 12-mile fishery contiguous zone to 200 miles would not be consistent with international law.

The United States has consistently protested claims of an extension of the fisheries contiguous zone beyond 12 miles and to make a shift during the course of the Law of the Sea negotiations would be extremely difficult from the standpoint of international law.

In addition, the International Court of Justice has recently held in two cases arising from the cod war that the unilateral extension by Iceland to 50 miles in that case violated the legal rights of the Federal Republic of Germany and of the United Kingdom. So you see we have a very recent precedent which would be extremely difficult to overcome from the standpoint of international law.

Fifth, Mr. Chairman, we feel that this approach would have the potential to very seriously undercut the Law of the Sea Conference.

If there are to be a series of unilateral claims made so that when we go to the Geneva session and come to the point of concluding the final agreement we discover that in the interim many other nations of the world have gone unilateral with claims they seek to protect, once that occurs it is extremely difficult to walk the cat back.

In addition, we are concerned that unilateral action in the fisheries area which is a very important part of the overall package treaty now

being negotiated could undermine the overall package agreement and thereby seriously injure the totality of interests that we have at stake in the negotiation.

Finally, Mr. Chairman, it would seem to us that any benefits from such an extension must be measured against the enforcement costs which would result from trying to enforce a claim to this 200 mile area against nations which do not accept that claim. I think that is the critical point that we need to focus on in terms of enforcement cost.

The real point is the difference between an arrangement in which there is basically self-policing, that is, that the other participants agree with the authority of the law and accept the claim as opposed to the situation which would be the case with unilateral extension, of the other participants not accepting the particular claim and thereby requiring a higher enforcement cost for equal effectiveness.

The difference, to use a domestic analogy, is that if the population accepts that the Government has authority to enact laws saying a person should stop at red traffic lights, it is not necessary to station a policeman at every traffic light to have a workable system. On the other hand, if the basic pattern is one of nonacceptance of the claim, it will be necessary to incur an additional cost of a larger enforcement effort to achieve the same degree of enforcement.

Now, Mr. Chairman, we have recognized that there is a serious global fisheries problem and there is a serious problem that the United States has both with respect to our coastal stocks and with respect to protection of our interests in distant water fishing off other countries.

We believe that we do have a good solution to those problems. In fact, we think it is the only effective solution to these problems, that is, a comprehensive Law of the Sea Treaty.

At the same time we are concerned about the interim difficulties and have sought to meet those

I do not pretend to indicate that we can solve all of our interim fisheries problems. We cannot, but we do feel we can make substantial progress toward protection of those stocks in the interim period.

I have also not sought to discuss the specifics of an approach rooted in the 1958 Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas. Such an approach such as that contained in H.R. 15619 introduced by Congresswoman Sullivan and other members of this committee is potentially not as objectionable as legislation rooted in a unilateral extension to 200 miles.

The principal problem with H.R. 15619, an approach based on article VII, of course, is that the most important nations fishing for our coastal and anadromous stocks including the Soviet Union and Japan are not parties to the 1958 convention but with appropriate changes it is possible that H.R. 15619 or a similar measure rooted in existing international law could be a useful alternative to an approach based on the 200-mile extension.

Accordingly, before commenting further on the approach of H.R. 15619 the executive branch would welcome an opportunity for further study with this committee and the Congress with a view to examining the possibility of changes which might make that legislation acceptable.

Mr. Chairman, I thank you very much. I am sorry to have taken as much time as I have in going through these materials in great detail but it is my feeling that this committee and the Congress is

faced with the most fundamental choice that we have ever made for the future of U.S. oceans policy.

Again, thank you.

Mr. CLARK. Thank you very much, Mr. Moore.

Mr. Downing?

Mr. DOWNING. Thank you, Mr. Chairman.

Mr. Moore, that case involving the Icelandic unilateral extension of its fishing zone can be argued both ways, can it not?

Let me elaborate on that a little, if you will. The Court found, or I think they indicated, that it was in violation only because it did not take into consideration the rights of foreign nations already fishing in the area nor, I believe the fishing interests of others.

As long as these two factors are present and proper negotiations are undertaken I believe the Court indicated it would be within international law for the coastal state to assert preferential fishing rights in zones off its coast. Is that not correct?

Mr. MOORE. Congressman Downey, I have learned to be extremely cautious to international law questions posed by persons such as you trained under Judge Hardy Dillard of the International Court of Justice.

I think there are points that emerge on both sides of those two cases to certain protective actions which might be taken.

The Court is moving to some extent in the direction of recognizing certain preferential rights for coastal states which are dependent on or heavily dependent on fishing off their coast as well as the duty to conserve endangered stocks.

I think your point is accurate.

Mr. DOWNING. Thank you. I knew that both sides of the question were using this case as precedent.

Let us get to the deep-sea mining for a moment. As you know there are factors here which require quick action. One, we need manganese. We need to become self-sufficient in manganese and not have to depend on 98 percent of our manganese being imported from other countries.

In 1980 I am told we will be importing 100 percent of our manganese. Already countries producing manganese and other minerals found in manganese nodules have made attempts similar to OPEC, to set price floors on those minerals. If successful, they could put an embargo on minerals just as the Arab nations put an embargo on oil.

Secondly, and almost as important is the fact that the three, four, or five companies in this country that have had the initiative to go forward so that we will be in a position to mine minerals of the sea in the next few years cannot afford to wait any longer and some of those companies have combined with foreign nations in order to get the necessary capital.

A example of this is Deep Sea Ventures which is located in my area. They could not wait any longer, so they formed a consortium with Japan and now that is no longer solely an American venture.

We would like to take action now so that these companies can go forward, and can be in position 2 or 3 years to recover and process deep seabed minerals in commercial quantities. For that reason, I hope we can move now on our domestic legislation.

Now tell me, what are your views about that?

Mr. MOORE. If I could for a moment just qualify my answer to the preceding question by adding that the Court also indicated that the essence of the decision was that there was no agreement entered into with those fishing off the coast of Iceland and that the particular unilateral action taken was in the absence of agreement in violation of their legal rights.

Mr. DOWNING. But had those factors been taken into consideration it would not have been a violation.

Mr. MOORE. Had they taken action by agreement with the countries fishing off their coast, not by unilateral action, that certainly would have been consistent with international law.

With respect to our very great interest in deep seabed mining and access to the mineral resources of the deep seabed we certainly agree that this is an important part of the overall U.S. interest in the oceans.

We also agree that our companies at the present time are at a point of decision and are having difficulties in raising the kind of capital that is necessary to get on with the job of mining the deep seabed.

Again, the problem is one that we do not have a sufficiently stable legal regime to permit the raising of that capital.

We have felt that the best solution to this problem was a comprehensive oceans law treaty which would also provide a good regime and machinery that would permit secure access by U.S. firms to these mineral resources.

We are working as strongly as we can in the international negotiation to insure that this interest will be protected.

Mr. DOWNING. Another thing comes to mind. If we passed a law which would permit U.S. companies to mine the deep sea, and we licensed them to mine certain tracts, and they proceeded to mine those tracts, then along comes the International Law of the Sea Conference and they agree on some other system for deep-sea mining, the companies that were already in place, that is U.S. companies, might lose their prior rights, might they not?

Mr. MOORE. I think again this is a reason that we need an agreed regime for the mining of the deep seabed and a regime which can be agreed in a timely fashion on the General Assembly schedule and if we are able to obtain that agreement on schedule we would hope that this problem would not arise.

Mr. DOWNING. Has the administration in any way reviewed its decision on deep-sea mining legislation since Caracas?

Mr. MOORE. We are continuing to review our position on the deep-seabed mining legislation.

Mr. DOWNING. Is any work being done on administrative legislation as witnesses previously have said would be done?

Mr. MOORE. We have indicated recently in testimony before the Senate Interior Committee that we would be shortly submitting to the Congress, this is something we will want to be consulting with this committee on in the next few weeks, legislation which would authorize provisional application of the deep-seabed mining as well as the fishery portions of the new Law of the Sea Treaty and we will be submitting such legislation shortly to the Congress after consultations with this committee.

Mr. DOWNING. Well, H.R. 12233 which is the deep-seabed legislation has been approved by the Subcommittee on Oceanography and I hope it will soon be taken up by the full committee.

Can we expect any administration comments on the present version of the bill?

Mr. MOORE. Our present position as I indicated is one of reviewing carefully this legislation and when that review has been completed we will be in touch with this committee.

Mr. DOWNING. I know my time is almost up but let me wind up by saying I do not believe there is any member of this committee who does not believe these things should be resolved by an agreement in the international community.

I think that is the way it should be done, but our problem is one of time and one of sincere doubt that the Law of the Sea Conference will result in anything mutually agreed on.

We have to weigh whether we are going to sit around and wait through Geneva and then consider where is the next stop to be to made—Caracas again?

But let me ask you: How long must we wait, Mr. Moore? That is the problem.

Mr. MOORE. The point is certainly well taken and as Ambassador Stevenson indicated this morning I think time is of the essence.

We have made this point very clear and will do everything that we can to insure that there is adherence to the General Assembly schedule which would mean a treaty concluded no later than 1975. If the nations put their minds to it, if they take it as seriously as I believe they will at the Geneva session, there is no reason that we cannot conclude the treaty on schedule.

Mr. DOWNING. Thank you.

Mr. CLARK. Mr. Pritchard?

Mr. PRITCHARD. Thank you, Mr. Chairman.

Let me ask a question that is very close to my district first so in my ramblings I will not forget it in my 5 minutes.

Is my understanding correct that the U.S. position is that there should be a total abstension of fishing for salmon on the high seas?

Is that the position that you are taking, Mr. Moore?

Mr. MOORE. The position that we have taken in the draft articles that have recently been submitted at Caracas is that there should be no fishing for salmon beyond the territorial seas of the host state in the absence of agreement of the host state.

Mr. PRITCHARD. Going beyond the 12 miles?

Mr. MOORE. Yes. It is a better way of stating what we had earilier planned in the converse; that is, the coastal state would have management control and preferential rights over anadromous species throughout the range of those species on the high seas.

We think it really is more meaningful and understandable in the negotiations to indicate that for a variety of sound conversation and management reasons there should be no fishing for salmon stocks beyond the territorial sea of the host state without the consent of that state.

Mr. PRITCHARD. Now, in your speech here both you gentlemen particularly you, Mr. Moore, talked about the requirement of flexibility in the different country's positions if you were going to arrive

at agreement. I think it would be perfectly fair to assume that the fishermen are very worried about your flexibility and how it might affect the salmon part of this Law of the Sea Treaty.

Now, is this position a negotiable one?

Are you planning to modify this position?

Mr. MOORE. Well, Congressman, first with respect to whether our coastal fishermen need be concerned of any possible flexibility in this area, the thrust of the negotiations is so very strongly in the direction of coastal state management jurisdiction over coastal stocks that if we can resolve the other issues this issue is not in doubt.

The question of special treatment for anadromous species is a more difficult issue in the negotiations in the sense that there is not the same degree of overwhelming concurrence on any one position.

We feel, however, there is substantial support for our position on host state control of salmon. Ambassador Stevenson might more appropriately answer this one.

Mr. PRITCHARD. I would like to have Ambassador Stevenson comment.

Do you think this will become a negotiable item?

Ambassador STEVENSON. I think the way you put the question makes the answer more specific than I think is really necessary in terms of protecting the interest that we have involved here.

It is a very important part of our policy to protect that salmon interest. We have already made a slight change in the article which I think the members of our delegation representing the salmon industry understood and approved of.

Initially, we talked about host state control over salmon throughout their migratory range.

Well, this ran into a lot of opposition not only from the Japanese and others, but from people who said well, really why are you asserting this control over all of the oceans. We accomplished exactly the same result by our changed position of having a ban, that is, a high seas ban on fishing for salmon but it was much more negotiable. The change in position that we think worked out with the delegation will achieve the real interest you are interested in and certainly, we are going to consider it.

The protection of that interest is one of our fundamental objectives.

Mr. PRITCHARD. First, I want to say this. I have great faith in you gentlemen.

Ambassador Stevenson, I really commend you for your leadership, and I know that the extension of these battles is not in your personal interest. You would like to get back to your regular work and back to your law practice and stop being the Ambassador which you have been for a number of years. I know it is not your actions that are delaying this nor is it in your personal interest. I want to commend you for the work that you have done.

Ambassador STEVENSON. I wish you could convince the Wall Street Journal of that.

Mr. PRITCHARD. Well, that is another story. I have been concerned because I feel that our priorities may be a little wrong. I have felt that our priorities run in this list—first oil and second, the fisheries.

It may be that at the present moment this looks like the proper priority. However, I think in the long run that it is not in the Nation's best interest. I am sure you do not agree with that so I will accept that.

Second, I would like to know if somebody here can explain the implications for our Navy in this thing without divulging all the secrets.

Ambassador STEVENSON. You mean why this conference is important to the Navy?

Mr. PRITCHARD. Why are we giving this great weight to the naval considerations? I think they are way over-balanced. But what are the considerations you are giving?

Ambassador STEVENSON. Well, mobility I think in one word is the most important single factor, the ability of our Navy and our Air Forces to navigate the seas without interference.

Coming to the more important specifics, I will mention first the importance to our whole strategic picture of our nuclear submarine deterrent; I think the ability of our submarines to navigate without surfacing is very, very critical.

I think the ability to get through important straits such as the Strait of Gibraltar has been very critical.

I think that we also have some related national security objectives, for example the whole question of being able to transport oil without interference is very critical.

I think these are critical U.S. interests and our whole effort has been to advance the whole complex of U.S. interests. I do not think that if we take the international, as opposed to the unilateral approach, that there is any reason why we have to sacrifice one to get the other.

I think the problem is, though, that if we just go ahead unilaterally the navigational interests are probably not going to be adequately taken care of.

Mr. PRITCHARD. Well, is this position not also shared by the other major powers, this same concern for freedom of access?

Ambassador STEVENSON. Yes.

Mr. PRITCHARD. So all of the major powers are of a similar mind in this?

Ambassador STEVENSON. That is right, but I assume the question you are asking is if it is that important to them why does this not mean it is less important to us because they would be hurt just as much. I think the answer to that, if you look at the United States and you see where our strategic interests are, is that it is very, very important that we do have this mobility that we need.

I think since we basically are talking about security and not wanting to really get into actual hostilities I think everyone realizes that to keep the situation the way it is, it is very important that there be a strategic balance and that is what I think we get by having the present situation and the particular improvements we would like to see in it through this treaty.

Mr. PRITCHARD. But it seems inconceivable to me that when the major powers of this world are of a like mind that some nation just by unilaterally mandating it could block off these straits.

Ambassador STEVENSON. Well, the question of course that you are asking is, if we could act ourselves unilaterally over coastal resources, why we could not use our armed strength to prevent other people from acting unilaterally in other areas such as impeding transit of straits?

Mr. PRITCHARD. In concert with other major nations.

Ambassador STEVENSON. I think in an extreme case you are undoubtedly right; we might be prepared to use armed force where it is

something very critical to U.S. interests, but the trouble is over time your interests get worn away because a very friendly government in a particular area does something which they could not do under this treaty but they do it under claim of changing international law and unilateral right and you give up something that later on is very, very important.

It is just very, very difficult to take that critical decision to use armed force to enforce some of these rights.

I think you have had the same situation in the past where there has been criticism of our unwillingness to use armed force because maybe you have had situations on the one hand where you have had very friendly governments and we say we do not want to offend the very friendly government and another government that is very unfriendly and practically the opposite concerns are expressed, yet we do not move.

So the use of armed force to enforce our rights is not the answer as it was in the 19th century. Wholly apart from the United Nations Charter prohibition against using force, it is a very politically costly way of achieving our objectives.

Mr. PRITCHARD. I know other members have questions and I will stop here.

Mr. MURPHY [presiding]. Mr. Young of Alaska.

Mr. YOUNG. Let me apologize for jumping ahead, Mr. Chairman, but I do have a plane to catch.

Mr. MURPHY. Mr. Young of Alaska is recognized.

Mr. YOUNG. I do not know how far along we are but of course, my main interest as you well know is in security but also in the fish production and the United States of America and more so in the State of Alaska. I am also concerned about what has happened in the past years, apparently under your jurisdiction. Are you content to let this continue to happen until our stocks are depleted?

Fishery resources will continue to be one of the great contributors to the economy of our State and I have three questions I want on the record, one way or the other, and I will sit down. I understand your present position would implement a total abstention principle on fishing of salmon on the high seas.

Ambassador STEVENSON. Except with the consent of the state of origin.

Mr. YOUNG. What I am wondering is, do you foresee in the future any modification of the high seas fishing principles, modification at all as far as state rights are concerned?

Ambassador STEVENSON. I, in essence, answered this question earlier.

I think that the substantive position is we want to protect the salmon interests. There have been modifications made in consultation with the Alaskan and other salmon representatives on the delegation before we moved to this high seas ban. We thought that was more negotiable than trying to assert coastal state control throughout the whole area and it achieves the same objective. We, in fact, made that move but I think the importance of protecting the salmon interests is one that we have expressed very strongly and I think we are not alone in that view.

The Canadians, the Russians, the Norwegians, Ireland and a number of other countries have a comparable interest.

Mr. YOUNG. When it gets down to an economic zone do you foresee the possibility of the State Department trading off?

I am asking this on my own. I want it for the record that I am asking these questions on my own. On the economic zone do you foresee the possibility of trading off rights of the states involved, whatever you want to call it, shipping channels or whatever, for a continuation of the decimation of the salmon industry in the high seas, especially in the Alaskan area?

Now, you know and I know that they are fishing with monofilament nets which is against our regulations and we have seen nets at least 15 miles long and 400 fathoms deep cut loose. We cannot continue to have that kind of activity and we have been under your jurisdiction for many years. Are they saying we are not going to let you go through X, Y, Z straits unless you let us use this kind of net or are you going to let them continue to take the fish out of the sea?

Ambassador STEVENSON. I think here we are not speaking just about the State Department.

We are basically speaking about our Law of the Sea policy where we have the whole executive branch represented which is working under John Norton Moore. Basically in the negotiations we are representing the President and the executive branch.

I think that clearly what we are attempting to achieve internationally will remedy just what you are talking about.

We do want effective coastal state management and enforcement but we want the international basis for doing that and I think that once we have that, hopefully the funds and arrangement for the necessary enforcement will be forthcoming.

I think, incidentally in that connection the question was asked this morning on the Coast Guard's capability and expenses and we do have representatives of the Coast Guard here who can give you more detail on that.

Mr. YOUNG. I am quite aware of that as I sit on that committee also. But when you say forthcoming, what are you looking at for a time schedule? I heard this same song 10 years ago.

Ambassador STEVENSON. Well, I can appreciate this very much, that you have the feeling that—people come and say just 1 more year, that it is the same old song. All I can say is that I have not been in it all that time, but my own very strong view is that this next year is the critical year. I think it is not just a question of taking more time and having that additional cost in terms of losing our fish and having them decimated, I think next year is really the opportunity to get this treaty.

From then on it will be increasingly difficult because you have comparable problems in many other countries and I do not think they are going to stand still, so I think this is the critical year. That being so, naturally I am concerned with anything that might affect our opportunity to maximize the possibility of success.

Mr. YOUNG. One last question: As you well know there is a piece of legislation now before the House and the Senate and I expect the Senate to act on that bill contrary to the Foreign Affairs Committee's recommendations. You have read S. 1988 and what is the striking difference between the Senate bill and the Law of the Sea Conference?

What is the basic objection to that bill and what you are trying to do in the Law of the Sea Conference?

Ambassador STEVENSON. The basic objection in one word is that it is unilateral.

The substance of that bill is basically on all four's with our own fisheries policy.

We would like to have what is in that bill be the law, but we would like to achieve that through an international agreement rather than unilaterally because we feel that if we act unilaterally we lose our leadership position.

Other countries can take unilateral action that is not consistent with our interests and this will, in effect, make it much more difficult to reach international agreement.

Furthermore, if it occurs, I think you will inevitably have a good deal of discussion of our unilateral action, rather than concentration on the negotiations, in our next session.

Maybe Professor Moore would like to comment on that further.

Mr. MOORE. Congressman, I would like to add——

Mr. CLARK. I wonder if we can be a little short on our answers. I also hope you are about finished with your questions, Mr. Young, because we have a long afternoon ahead of us.

Mr. MOORE. Congressman, I would like to add one other brief point.

Before going to Caracas I went to Alaska to overfly the foreign fishing fleets off the coast of Alaska to see the kind of pressure that we did have off the coast of Alaska.

I also met with the Governor of Alaska and the Law of the Sea Task Force there to discuss the seriousness of the problem. I can attest that we do have major problems there.

At the same time I feel very strongly that the solution to those problems off Alaska is the comprehensive Law of the Sea Treaty.

It is the extended management jurisdiction that we will get through the 200-mile economic zone to be accepted in that conference and I do think that it is important to point out that in the interim period the new enforcement measures that we have announced for the protection of the Continental Shelf living resources of the United States do get at the bottom trawling off Alaska and should have a very substantial impact in Alaska.

Mr. YOUNG. Thank you, Mr. Chairman. I have no further questions.

Mr. CLARK. Thank you, very much.

Mr. Murphy?

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. Moore, have you read or received reports of the hearings that this committee has conducted throughout the United States on the 200-mile limit?

Mr. MOORE. I have not read the transcripts of those hearings, but I am aware that they have been conducted and I understand the sentiment of our coastal fishermen is rather strong for emergency fisheries legislation with a 200-mile limit.

Mr. MURPHY. We were not hearing coastal fishermen only when we conducted those hearings. I put out a questionnaire to the public, to 500,000 people and the response is 30 to 1 in favor of the United States immediately invoking a 200-mile limit, not just the coastal fishermen but the American people.

Mr. Kyros has conducted hearings, Mr. Studds and Mr. Dingell throughout the East and West and throughout the gulf areas of

America and they get this same overwhelming response. People are getting very, very concerned about it.

Here we have started to read the reports of the Caracas meeting and it is just another stalemate and that is the problem that this committee faces.

We certainly would like international action and a compact such as we got at IMCO last year, but I do not think the people will stand for this kind of delay because it works against the interest of the United States.

Mr. MOORE. The concern of the American people to protect the fish stocks off our coast is certainly a correct concern.

We have a serious fisheries problem off our coasts.

On the other hand, the only effective answer to that problem is a comprehensive Law of the Sea Treaty.

Again, as Ambassador Stevenson said I am very sympathetic to a feeling that this has dragged on for a long time, but actually the only substantive session that has ever been held of the conference was at Caracas this summer and from the beginning we did understand that there would not be an agreement at that first session of the Conference.

We do feel that there is no reason that agreement cannot be concluded in 1975 on the General Assembly schedule.

Mr. MURPHY. I cannot buy your enforcement argument. I asked the Coast Guard months ago to submit for the record and Mrs. Sullivan this morning asked that it be submitted in the record of these hearings just what hardware and mission change the Coast Guard would need and they are modest.

The Coast Guard already is getting high-speed jets for surveillance and search and rescue missions.

I do not understand your concern about a 200-mile limit down in the trust territories.

The real thrust of the 200-mile limit is over the Continental Shelf limits and Hawaii.

Ambassador STEVENSON. Could I add one point on Caracas? I think when you say the American people want the 200-mile limit, it is not only the United States—well over 100 countries at Caracas also wanted the 200-mile limit.

We expressly endorsed it and I think even more significant in terms of a change in position, the Soviet Union, which had previously opposed anything beyond 12 miles, endorsed it.

While we did not get a specific treaty article, there is a very definite large majority in favor of that 200-mile limit, but internationally rather than unilaterally arrived at.

Mr. MURPHY. What was the major problem in this Committee III as to marine polution matters?

Ambassador STEVENSON. The principal problems in Committee III have basically related to this same economic zone, the wish of a number of countries to have the economic zone relate not only to control over resources, but to control vessel source pollution, for them to have full control to set standards, construction and discharge standards and also to enforce those standards relating to vessels transiting the area.

Mr. MURPHY. Did IMCO not already agree on a 50-mile limit?

Ambassador STEVENSON. For discharges, yes.

Mr. MURPHY. Right.

Ambassador STEVENSON. I think the problem here, of course, is the question of potential interference with navigation, and secondly, whether in the case of construction standards, for example, it is really the most effective way to prevent pollution to have coastal state standards in each coastal economic zone rather than having strong international standards.

It has been the U.S. position on construction standards that we want strong international standards and that is the best way to deal with the problem.

Mr. MURPHY. Well, did we not arrive at that, at IMCO? We set up segregated ballast and monitoring systems that were agreed to by virtually an overwhelming number of countries in attendance.

Mr. MOORE. The principal marine pollution issue being discussed at the Law of the Sea Conference is the jurisdiction issue; that is, what state or states versus international bodies such as IMCO will have the authority to make standards for vessel source pollution and to enforce those standards.

The recent conference on marine pollution from ships held under the auspices of IMCO in London last year was dealing with the setting of those particular standards through IMCO.

Now, we have felt that it was particularly important that with respect to vessel source pollution the standard setting should be international; that is, it should be set through IMCO. Even though IMCO has not always agreed to the standards we have wanted, it is a very expert body and has a good record.

On the enforcement ride we have felt that the enforcement of those standards should be by flag and port states with respect to either their own flag vessels or vessels entering their ports.

This question of vessel-source pollution is an issue of fundamental importance, both for the protection of our merchant marine and navigational interests and our environmental concerns. There has been good progress in this area in the negotiations.

There seems rather substantial agreement at this time that construction standards for example will be set internationally.

Mr. MURPHY. By whom?

Mr. MOORE. Through IMCO.

Mr. MURPHY. Well, they are already set.

Mr. MOORE. It is a question, of course, of jurisdiction to set standards and to make changes, not of any one particular set of standards. The appropriate standard setting body would be IMCO.

Mr. MURPHY. The time is set and a date certain is set already and the U.S. shipyards will not take orders except under the IMCO standards now.

Mr. MOORE. The equally important reverse side is that coastal states will not have jurisdiction to set ship construction standards and if they did we would have a situation of potentially 120 different sets of competing standards for ship construction.

We feel it is very important to continue setting these through IMCO.

Mr. MURPHY. Do you expect that the Law of the Sea will supplant the IMCO agreements?

Mr. MOORE. No. With respect to vessel source pollution we are simply seeking to confirm that IMCO is the basic international body, a specialized agency of the U.N. that has the competence to make

these standards for vessel source pollution and it should not be set by coastal states in the economic zone.

Mr. MURPHY. What is the United States' position on construction standards and vessel source pollution?

Mr. MOORE. Well, with respect to the jurisdictional questions which are the only ones being discussed in the Law of the Sea Conference we are not, for example, talking about things like whether there should be double bottoms or whether there should not be, or what kind of hull construction there should be.

We are dealing only with the jurisdictional issues.

Our position is that the making of standards for vessel source pollution should be exclusively international; that is, that such standards should be set through the Intergovernmental Maritime Consultative Organization, through their regular procedures, through the new Marine Environmental Protection Committee that has been established, except, of course, for the ability of flag and port states to supplement there standards.

On the enforcement side our position is that the enforcement of those standards should be both flag states with respect to their vessels and port states against vessels of any flag using their ports.

Mr. MURPHY. Is the U.S. position the majority position?

Mr. MOORE. There is a majority that has accepted the principle that construction standards for vessel source pollution should be set exclusively internationally in the absence of some special standard for some special region using an international review procedure through IMCO. This, of course, does not address the ability of flag and port states to make supplemental standards.

There is still rather substantial disagreement on the question of the setting of discharge standards with a number of countries supporting the authority of coastal states to set discharge standards for vessel source pollution in the economic zone or some portion of it.

There is also a substantial difference in the negotiation on the jurisdictional arrangements for enforcement of vessel source pollutions standards. There are a number of countries that support our position, a flag state-port state approach.

There are others that support coastal state enforcement of international standards in the economic zone out to 200 miles.

There are others, like Japan and France, that would support enforcement of the international standards by the coastal state in some limited area, such as 50 miles, adjacent to the territorial sea.

Mr. MURPHY. What is Canada's position on coastal state jurisdiction?

Mr. MOORE. Canada has, a few years ago, unilaterally promulgated the Artic Pollution Control Act which claims jurisdiction to set standards and to enforce those standards for all vessels transiting a 100-mile area where the act applies, regardless of whether those vessels are calling at Canadian ports or not.

In fact, this is really a good example of precisely the kind of problem that we would have if all nations were free to unilaterally set standards. If Canada could do so, and this was adopted as law so that all coastal states, could do so, it would mean we would have potentially 120 different sets of standards for vessel source pollution, for ship construction. It would be comparable to placing a house on a railroad flat car

on the east coast of the United States, moving it to the west coast and back and subjecting it to all the building codes en route even when they are changed on the way back.

Mr. MURPHY. I am really thinking of Alaska oil coming down to the Continental United States being subjected to Canadian jurisdiction.

Mr. MOORE. It would mean shipping in that area would be subjected to very broad jurisdiction over navigation.

If you can set standards for the construction of ships we have felt that it is very close to plenary control over navigation.

Mr. MURPHY. Thank you.

Mr. CLARK. Mr. Forsythe?

Mr. FORSYTHE. Thank you, Mr. Chairman, and I will be brief.

Mr. Moore, you say there is strength in both bilateral and multilateral agreements. Will enforcement in this area effectively regulate bottom trawling and other such activities.

Is it accurate to say that this will have no effect on the east coast of the United States?

Mr. MOORE. I would like to call on Mr. William Sullivan to respond more completely.

Mr. SULLIVAN. The effect of the new enforcement procedures for Continental Shelf fishery resources will have a greater effect on the Pacific and gulf coast than they will on the east coast because it is only on the east coast that we already have in effect a fairly extensive system of international enforcement under which we already have the authority to board and inspect vessels of other nations for compliance with the ICNAF regulations.

The fact of boarding these vessels already exists on the east coast and has for some years now.

We do not have similar enforcement systems in effect under international agreements in the other areas. However, we will have some effect on the east coast as well as the other coasts through these procedures because we will be enforcing the domestic rights of the United States to the Contentinal Shelf fishery resources and we will be able to take action to protect those resources through the boarding procedures in the event that foreign nations are found to be violating United States laws about the Continental Shelf resources which under existing international law pertain to the United States and may be exploited only by the United States or by agreement with the United States.

Mr. FORSYTHE. There was a situation in recent weeks off the southern coast of New Jersey with a Japanese trawler stripping the bottom and taking the gear of the lobstermen off Cape, May, New Jersey.

What would be the impact of these new procedures you are talking about in that kind of a situation?

Mr. SULLIVAN. The procedures do not have any direct bearing on gear conflict situations.

If vessels are found taking lobster which has been declared a creature of the shelf, then we will be able to take enforcement action against those vessels including seizing the vessel and bringing them into U.S. ports for prosecution if they are taking continental resources such as lobster in contravention of U.S. law.

Mr. FORSYTHE. They may take the pots, but not the lobster so we are out of luck.

Mr. SULLIVAN. Perhaps Mr. Pollock would care to respond.

Mr. POLLOCK. Mr. Chairman, may I add a thought for my friend, Mr. Forsythe?

Senator Packwood has introduced in the Senate a measure to reimburse fishermen for their destroyed gear when the proof of precisely who did it cannot be established, and, of course, this is one of the problems that fishermen have off the coast. It might be useful for you to look at that legislation.

Mr. FORSYTHE. I understand it is already headed for the courts and just what the outcome is I do not know, but I know of the incident and I strongly support this inquiry.

New Jersey is very concerned about this whole situation. Our situation is somewhat different than that of many of the New England States because in New Jersey we have a very substantial resort industry. Because of this the problem of the offshore fishing has an impact that is not limited to our fishing industry. Its impact on a State like New Jersey extends to our very important sport fisheries and resort industry and causes damages in the millions of dollars.

I know that my three colleagues from New England are very anxious to question and I will yield to Mr. Cohen.

Mr. COHEN. Thank you, Mr. Forsythe.

I would like to point out for the record that I believe the State Department originally oppossed the Congress' attempt to declare lobster to be a creature of the shelf.

You based the argument on the contention that other nations would retaliate.

In some of the hearings, Mr. Moore I believe you testified that the Soviet Union had declared scallop to be a creature of the shelf.

We inquired as to what kind of retaliation you used against the Soviet Union and you said none.

As a matter of fact it also came out during that particular hearing that we retaliated against other nations who declared 200 miles limit such as those Southern American countries, Brazil in particular by entering into a treaty concerning shrimp which not only recognized their right to protect their species up to 200 miles but called for an appropriation of nearly $400 million to reimburse the Government for the supervision of their waters.

That is the kind of retaliation we have engaged in.

Now I mention all of this because I was very, very interested in your letter.

Mr. CLARK. Mr. Cohen, could we confine ourselves to asking questions?

Mr. COHEN. I am going to ask a question.

Mr. CLARK. That is fine, but I believe you came in after Mr. Kyros.

Mr. FORSYTHE. Do I have any more time, Mr. Chairman?

Mr. CLARK. Yes, if it is related to the same question.

Mr. FORSYTHE. I yield to Mr. Cohen.

Mr. COHEN. I was cut off, Mr. Chairman, at noontime by the bells.

The question I want to raise with respect to your letter to Senator Magnuson whereby you sort of jointly declare new regulations are going into effect and the question I would ask you is No. 1, when was the declaration of lobster to be a creature of the shelf? When did that act go into effect? What is the effective date of that?

Mr. MOORE. I am sorry, I do not know the precise date.

Mr. COHEN. I believe it was January 8, 1974.

I notice in your letter dated September 5, 1974, to the Senator that here we are 7, 8, 9 months later still talking about proposed regulations, enforcement of a bill that became effective 8 months ago and you even delayed the effective date of these regulations until December and you want to know why the people of this country and the fishermen are upset about what kind of action that this country is taking to protect its resources and I would like to know what your response is to a year's delay in implementing effective control to protect the lobster based upon your letter.

Mr. MOORE. There are major differences—and I think this is very mportant—as to the kind of enforcement regulations that we have announced in the letter that went to Senator Magnuson, and those we have had in the past even with respect to lobster or a creature of the shelf.

With respect to the lobster as a creature of the shelf we immediately notified the foreign governments concerned and indicated that we were prepared to take a variety of enforcement measures which were taken under the enforcement procedures that were then in force for the protection of U.S. Continental Shelf fishery resources.

Let me indicate what is new about the new standards. One thing that is new is that they relate to incidental catch of creatures of the shelf pursuant to the use of bottom gear.

The second thing that is different is——

Mr. COHEN. No distinction in the law that Congress passed, no distinction between intentional or incidental?

Mr. MOORE. There is I think, a serious problem in terms of the question of the international legal rights of other governments here in terms of boarding them for example, when there has been no observed taking.

Our new procedures broaden very substantially our practices in circumstances where there is a use of bottom tending gear. It is basically intended, I might add, for the greater protection of creatures of the shelf.

Mr. COHEN. In your September 5 letter as I read it, it pertains specifically to shellfish creatures.

Mr. MOORE. That is correct.

Mr. COHEN. That is still 8 or 9 months after the act was passed and signed into law.

Mr. MOORE. Yes. In the interim period there was enforcement based on the existing enforcement procedures and measures that had been applied consistently up until that time.

Mr. COHEN. Which had nothing to do with protecting lobsters as creatures of the shelf because prior to that time there was no such provision.

Mr. MOORE. Well, the new procedures would apply to lobsters as a creature of the shelf, of course, in the period after they were declared to be a creature of the shelf and from this period on when the new regulations go into effect on December 5 there will be even tougher procedures used, but in that interim period after the declaration as a creature of the shelf, we did apply the then normal enforcement procedures that were used.

Mr. COHEN. Let me ask you this: Does the Coast Guard have to check before they take any action with respect to a ship that they view violating international agreements?

Mr. MOORE. Let me defer to the Coast Guard.

Mr. COHEN. Let me ask you whether or not it has come to your attention that the Coast Guard does engage in this practice and has engaged in this practice after the passage of this act by Congress.

Mr. MOORE. I frankly am unfamiliar with the details of our fisheries enforcement practice.

I have concentrated on the law of the sea negotiations but I think either Mr. Sullivan or Capt. Philip Hogue might be able to provide an answer to that.

Captain HOGUE. Congressman, I think the answer to this question is that we do enforce the law, but in the enforcement of the law we do also consult with other governmental agencies, and the State Department.

We do not have NMFS with us concerning the law from their viewpoint but we do consult with them. We do not have to get answers from them, however. We detain.

I think the ultimate answer to your question is that yes, we do consult with them. I think we oftentimes notify them. It is cooperative. We don't find any delays in the enforcement of the law.

Mr. COHEN. What have been your instructions from January of 1974 to the present time with respect to enforcing the law that provides that lobster shall be a creature of the shelf?

What have been the instructions that eminated from the State Department's office?

Captain HOGUE. I will defer to Comdr. John Lynn who is Chief of our Maritime Laws and Treaties Branch.

Commander LYNN. May I, Mr. Chairman.

Mr. CLARK. Yes.

Commander LYNN. We have had a policy which requires that our commanding officers on the scene report to us by an immediate precedence message, which comes to us very quickly, in all cases where we do not see an intentional taking of any Continental Shelf fishery resources.

Now, it is only in those cases where we do not see an intentional taking, where we have the problem of incidental catch, that we are reporting back, and we have not yet had an actual case that has led to a seizure.

Mr. CLARK. Thank you, very much.

Mr. COHEN will have a chance to ask some more questions later on.

Mr. KYROS?

Mr. KYROS. Thank you, Mr. Chairman. Thank you, very much. Mr. Moore, I just want to say that when you stated a minute ago that you did not know about our enforcement procedures, that was probably the most accurate statement you have made so far.

Actually, I have never heard such a bewildering array of statements that are so incorrect and I think we will take them from the record and prove their inaccuracies on the floor of the House when this bill comes up.

You sent out a letter on September 5 in the midst of the discussions in the other body about a 200-mile fishing limit indicating how the State Department is going forward with new enforcement measures.

That is sheer nonsense. The law had already been passed about the lobster being a creature of the shelf.

Second, while you were at the Law of the Sea Conference this summer, Ambassador Stevenson, in a well-publicized speech, said that the United States was really in favor of a 200-mile zone. Everyone on the east coast and elsewhere imagined that you, the State Department, had come around to a 200-mile fishing limit: an assumption you did not bother to correct, I might add.

Actually, all you did was take the species approach and apply a zone to it.

What I want to begin to question you on today is what are you really going to do about the enormous problem of our depleted fisheries that are rapidly becoming extinct. The fish stocks can not wait, while manganese nodules, oil and gas will still be there in 5 years. A fishing limit, you know, has nothing to do with the U.S. Navy, the straits, submarines, overflights or free passage. It is a simple, clear fishing limit.

Now, we have discussed this over and over again. I am afraid, however, on behalf of my colleagues who have not had the opportunity to go up and down the coast and the gulf and participate in the hearings held by this committee. You have come up with absolutely no solution for our greatest and most depleted resources. I asked you this morning a very simple question and I will start with that one first, that is how much money did it cost us to sponsor our representation in Caracus?

Mr. MOORE. I would like to call on Ambassador Stevenson to answer the last part of your question.

Mr. KYROS. I am only asking what it cost.

Ambassador STEVENSON. You asked me that question this morning.

The figure we have is $316,000. This cost does not include the travel cost and per diem for congressmen or for agencies other than the State Department.

Mr. KYROS. The figure I have, Mr. Ambassador, is closer to $750,000 and thank God some Members of the House and Senate went down to watch what was going on.

What are you going to do while we sit here now with East Germany, West Germany, the Soviet Union and all the other foreign ships, chasing everything in sight off our coasts?

What are you going to do this week and next week to protect our depleted fisheries?

Can we really wait for a comprehensive Law of the Sea Convention? What should we do immediately?

Should we forget the whole thing and tell our people not to go to sea anymore?

Ambassador STEVENSON. Well, I think we have made very clear that we are just as concerned about this problem as you are.

Mr. KYROS. No one doubts your concern.

Ambassador STEVENSON. I think it is our view that you are going to get more effective results if we have an international agreement.

The Soviet Union have said they will accept this. If you have them internationally on board, you are going to have much less of an enforcement problem in the future than you do now.

Mr. KYROS. Mr. Ambassador, I want to stop you at that point.

Earlier today it was suggested by you and Mr. Moore that your efforts in the State Department have led the Soviet Union to begin to talk about a 200-mile limit and accede to it.

They read about popular opinion in the United States. They know a 200-mile fishing limit is coming and that they would accede to it if we would make bilateral agreements with them, is that not a fact?

Ambassador STEVENSON. In the first place I never said the United States had convinced the Soviet Union to change their position.

I announced this was a significant development. Up to now they have fought against establishing a fishing zone beyond 12 miles.

Mr. KYROS. What made them change their mind?

Ambassador STEVENSON. I think what made them change their mind is that they have become very much concerned as we are in getting international agreement so there is no interference with their navigation.

They were very explicit. In fact, in every statement they made either internationally or bilaterally to the countries they talked to about that, that this was only as part of a package in which navigational interests were protected, that they were very much hurting their own fishing interests—and no doubt that they are. I think they were very explicit that this was really a determination that their overall interests were favored by sacrificing what had been a very strong fishing interest of theirs in the past.

Mr. KYROS. Let me get back to the question while we are here today concerning the Law of the Sea Convention.

What are you going to do to protect our fisheries like haddock, flounder and menhaden on an interim basis, so they will be left to regenerate?

What do you suggest as a constructive proposal now?

Ambassador STEVENSON. In the first place my responsibility is to get the best international treaty and I think the international treaty we are talking about will solve your problem.

The problem then I think, as someone else said, is strictly one of time.

Mr. KYROS. Yes, sir.

Ambassador STEVENSON. And I think if we can get that international treaty with the Soviet Union and hopefully Japan on board and make it applicable provisionally, I think that that is going to give you the best result.

As Professor Moore said, the ways and means of taking action now on provisional application of this treaty, I think is something we should turning to right away so that once we do get a treaty it will immediately go into effect.

You will not have this long delay for ratification of a large number of countries.

Mr. KYROS. Well, in 1958 we had that great convention and it took 8 years to ratify just one portion. Other portions are not ratified, no signatories.

It is almost impossible to pull all the countries in unless you and our country takes leadership in this world.

The moment we enact a 200-mile interim limit, we are going to strike bilateral agreements with everyone interested in fishing in our waters.

Yesterday, I had a report that a British ship operating in ICNAF waters had several tons of haddock on board. The Coast Guard stopped the ship. They called the State Department. It took the State Department 2 or 3 days to react, to come back to the Coast Guard, and by

that time the British ship had left. The haddock had gone and no one touched the British ship.

I have heard ICNAF discussed as an interim measure. It is not an exact failure, but a dismal failure and at this moment we must be the laughing stock of the entire world.

I heard Mr. Moore say that a bill has been filed to take care of some fishermen that have lost their gear.

There are a lot of poor fishermen up and down the East Coast that do gill netting.

There are large foreign ships, side trawlers, 300 and 400 feet long that run through our nets at night. There are reflectors on those nets and anyone can pick them out. The foreign ships run right through them anyway. The mid-water trawlers, surface trawlers could care less. They rip up the nets.

Do you know what the fishermen are required to do? They have to file a claim with the U.S. Government and have to prove a particular vessel did the damage.

That is just like a snowball in hell. We have demoralized our fisheries and now we are sitting here wondering what we are going to do to protect them.

We ought to enact an interim limit right now, then strike agreements as we have done with Brazil and move forward.

Your grand plan is a decade away, is that not a fact, Mr. Moore?

Mr. MOORE. Congressman, the major difference between us is not the goal. I think we share the same goal to adequately protect those stocks.

The difference is that I do not feel that a unilateral extension from 12 to 200 miles at this time would be an answer to our fisheries problem.

In fact, I feel that it may well, paradoxically, be something that could prevent our resolving this problem once and for all.

We have in the multilateral negotiations at the present time, agreement from the principal distant water fishing nations off the U.S. coast including the Soviet Union to agreement on the 200-mile economic zone as part of an overall multilateral treaty.

They are willing to agree because they have a variety of other very important oceans interests at stake in the Conference. They are not willing to agree on the same kind of basis, in my opinion, should we take unilateral action.

I think that we run a very substantial risk of, in fact, destroying the chance that we now have, a chance that we have never had before and that we may not have again of adequately protecting our coastal stocks and our distant water fishing interests.

Mr. KYROS. Let me ask you one question that you can perhaps answer categorically and it is simply this: By what date and in what year will we have a comprehensive Law of the Sea agreement on fisheries that will encompass every foreign nation fishing off our waters right now?

Just give me a figure—10 years, 15 years, 50 years?

Mr. MOORE. There is no reason that we cannot have that agreement within 1 year, that is on the General Assembly schedule of not later than 1975.

Mr. KYROS. A 200-mile fishing limit included within an economic zone, controlled by America, by the coastal States within 1 year?

Mr. MOORE. That is correct. There is no reason we cannot have it on the General Assembly schedule which calls for any additional session or sessions of the Conference to be held no later than 1975 and if we can provisionally apply the treaty then provisional application would go into effect at that point.

Mr. KYROS. When is your meeting in Geneva?

Mr. MOORE. March 17 to May 10.

Mr. KYROS. Of what year?

Mr. MOORE. Next year.

Mr. KYROS. A year from now, 1975 is that right?

Mr. MOORE. This coming year.

Mr. KYROS. You mean to say you will have a treaty that the 37 odd nations that fish off the United States are going to sign?

Mr. MOORE. We very much hope it will be a much larger group than even those fishing off our coasts.

Mr. KYROS. In the whole history of the Law of the Sea Convention this has never happened before. You could not go amiss?

Mr. MOORE. Unlike 1958 and 1960 we genuinely have a unique opportunity because it is being approached in a package treaty.

All of the nations of the international community that have an interest are involved in these negotiations. If we lose the opportunity now for a widely agreed treaty it may never return.

Mr. KYROS. Well, it will be no pleasure for me to be here a hear from now if I am, God willing, and you are back and we talk to you gently on this same subject.

I do not see how we can have a comprehensive treaty in 1 year, but why should we wait 1 more year for the foreign vessels to decimate our fish, ravage our coasts, and demoralize our fishermen?

It is because you think it is more symetrical to get a package agreement?

Mr. MOORE. No, because it is much more effective, in fact it is the only solution to that problem. Second, we should not—with respect to the kind of interim measures we can take in this period, which can provide substantially increased protection—we should not wait, as far as those are concerned, and we think there are a number of things that can usefully be done in this period.

Mr. KYROS. Mr. Moore, I do not know if you understand the problem. The sports fisheries have gone. The Japanese are taking up gill fishing all up and down the coast. In the gulf the Cubans and Mexicans are taking our menhaden.

Yet, you sit there and talk as if we can continue to wait and wait as we have for years now without an immediate solution in sight.

It seems to me that somehow you have not translated the actualities of what is happening to us.

You say the legislation is a brutal, unilateral action, and that is not true. It is an act that calls for other countries to make agreements with us. We are not going to act unilaterally or act chauvinistically. We are merely trying to preserve the species.

Finally, we had with us about a year ago some people from Iceland—and it is a funny characterization you gave to the so-called cod war. They do not agree with you.

Here is this tiny nation, with 80 percent of its economic resources being cod and other fish.

The British were coming close to the shores and scavenging the waters. The Icelanders said they were going to have a 50-mile limit in order to manage their remaining resources.

The British sent up a destroyer which tried to push off the poor Icelanders in their dories but there was no war, no shots were fired and the British finally accepted the quota.

Now, I do not care anymore what the International Court says and I am going to say that to you publicly because that Court has never protected one gill netter or one fisherman in America.

The Icelanders are living with that 50-mile limit and you know it and I know it.

Why do you characterize it as a failure?

Mr. MOORE. One has to keep in mind that one of the principal nations off the U.S. coast is the Soviet Union and the Soviet Union has every intent during the Law of the Sea Conference to protect its strongly held views of present international law.

That was the point I was making, that there is, in fact, a risk of confrontation.

Mr. KYROS. That was not so in the Iceland case. Nothing happened there.

Why did you suggest something did happen? Was there anyone killed or injured, Mr. Moore?

Mr. MOORE. I am not certain as to any deaths or injuries.

Mr. KYROS. Of course there was not and no ship was harmed or sunk; and furthermore, you keep talking about the Russians and their distant water rights.

We do not fish off their coasts. The key issue is they are depleting our fisheries whether it is haddock, flounder, or cod, or what have you.

Mr. MOORE, that is the issue and you keep talking as if we have to wait for them to make our fish extinct.

Why not draw a 200-mile limit, let them fish in areas where there is an optimum sustainable yield?

Why is that not the better solution then what you are suggesting; that we sit here and let the richest coastal resources in the world be overfished?

Why do you want to follow that course, Mr. Moore?

Mr. MOORE. The critical issue is what is going to be effective in solving those problems.

Mr. KYROS. You are not very effective about it.

Mr. MOORE. We are concerned that unilateral action at this time would not provide a solution to these problems, that it would not even provide an interim solution; that, in fact, it would create a substantial risk of abrogation of some of the agreements we have for the protection of our coastal stocks.

In addition to that, it would be at substantial cost to our distant water fishing, our tuna interests, and other interests we have at stake.

Mr. KYROS. Why not let the tuna representatives speak for themselves? I can see them right here in the room and the last thing they need is you to protect them.

If you did protect them like you protected the coastal fisheries, God help them.

Mr. Cohen brought out that you sent a letter on the Continental Shelf regulations which were supposed to be some new enforcement measures, but were not.

Mr. Moore, you have not lifted a single finger. You probably have not yet realized there is a sense of urgency in our fisheries. I hope

that we will pass these bills in the House and Senate as soon as possible, and that you will carry out our orders.

Thank you, Mr. Chairman.

Mr. CLARK. Mr. Cohen?

Mr. COHEN. Thank you, Mr. Chairman.

Mr. Chairman, I will yield to Mr. Studds.

Mr. STUDDS. Thank you, Mr. Cohen.

Mr. Moore, I will try, but I cannot guarantee that I will be more restrained than the gentleman on my left, but if I succeed it is only because it is an enormous effort, and I am not speaking in the emotional terms of the fishermen, because Mr. Kyros was very restrained compared to the feeling of the fishermen.

I guess Ambassador Stevenson quoted the Law of the Sea Conference in Caracas as saying we should restrain ourselves in the face of the temptation to take unilateral action.

He then urged states to prepare to reach agreement without delay since governments cannot be expected to exercise infinite patience.

I must say the Government of the United States must be his very favorite Government. I suggested last year that we do this every year at this time, as you know, and perhaps we will do it biannually, and I think all you need to do is change the year in your testimony. It says the same thing each year, you merely just change the year.

I suggest we ought to put the phrase "cautious optimism" on the Great Seal of the State Department and make room for the phrase "infinite patience" to go underneath it.

Mr. CLARK. Mr. Studds, let us have your question, please.

Mr. STUDDS. At one point in the hearings this morning 8 of the 10 members who were here were cosponsors of the legislation which most of your testimony attacks, as I am sure you know, and I cannot help but say to you that it is difficult for me and I suspect for other members of the committee to be lectured by you on the niceties of international law by representatives of the executive branch that have had somewhat less respect for the most elementary facts of international law with respect to a number of countries that I think most of us could think of, most recently Chile, and in this case, to be lectured on the niceties of international law when our efforts are positive.

We are trying to restabilize something, a source of food, a source of livelihood.

I hope the session today will be considered as the presentation of the administration's official position on this legislation. Nothing could be clearer from your testimony, Mr. Moore.

The only surprise is you found six reasons to be opposed to the bill, but they are all spelled out here. I take it that we can assume this is the official statement of the position of the administration with respect to the proposals unilaterally through statute to extend our fisheries jurisdiction and therefore, there is no need for further hearings by this committee to ascertain the position of the administration.

Is that a safe assumption, that we have the position fairly spelled out in your testimony?

Mr. MOORE. There are a number of different bills. We have not had an opportunity to comment on all of those bills.

Mr. STUDDS. But you commented on the Studds-Magnuson bill, which now has 169 cosponsors in the House.

Mr. MOORE. We have commented on the general approach of adopting a 200-mile limit and we certainly would be strongly opposed to that.

Mr. STUDDS. I got that impression. I want to quickly go down a little bit of history here.

In 1945 we unilaterally extended our claim to the resources of the Continental Shelf, is that correct?

Mr. MOORE. Under the Truman proclamation we did make a proclamation to the Continental Shelf living and nonliving resources.

Mr. STUDDS. Leaving the lobster a bit vague at that time. There was no enormous international outcry and threats of reprisal at that action by the United States, was there?

Mr. MOORE. There was a major series of problems culminating in claims to a 200-mile territorial sea by a number of Latin America countries.

There are about nine countries that claim a 200-mile territorial sea presenting major problems with respect to our navigational interests. So that since 1945 it has been the consistent policy of every administration, and I am thinking also of the 1966 contiguous zone, not to make unilateral ocean claims.

Mr. STUDDS. That was my next question.

Mr. MOORE. It has been the consistent policy not to take unilateral action in the oceans.

Mr. STUDDS. Was not the extension to 12 miles in 1966 unilateral?

Mr. MOORE. I think it was not. There are a number of major differences that have to be borne in mind on that.

One is there were a large number of countries in the world at that time that, in fact, recognized 12 miles either as a territorial sea or as an area of fisheries jurisdiction.

Mr. STUDDS. Do you have any idea roughly how many countries at that time?

Mr. MOORE. In terms of the precise percentage, no, I do not have the figures.

Mr. STUDDS. Just roughly, how many countries? There are 37 or 36 countries today with fisheries claims in excess of 12 miles.

Mr. MOORE. Right.

Mr. STUDDS. It sounds like a similar situation, does it not?

Mr. MOORE. It would also be a question of the comparison of the total number versus the total number of coastal States then.

Second, at that time the Soviet Union recognized the 12-mile territorial sea so it was hardly in a position to complain about or resist enforcement of a lesser claim of the 12-mile contiguous zone for fisheries.

The third point is there was no on-going Conference on the Law of the Sea at thattime which the extension ran the risk of seriously undermining.

There were other distinctions as well. For example, at a prior conference in 1960 we had come within one vote internationally of adopting the 12-mile fishing limit.

Basically the reason it was not adopted was U.S. opposition based on the territorial sea issues and not on fishing; so we already had very substantial international support for a 12-mile fisheries contiguous zone.

Mr. STUDDS. When we spent most of last year attempting to persuade you that the lobster was and ought to be a creature of the shelf you were full of doomsday predictions about international repercussions if we took that action.

Mr. MOORE. There have not been major harmful consequences from that, but I think the kind of action we are talking about, of an extension jurisdiction, is simply not at all in the same category in terms of effect on the negotiations, or our foreign relations, or our fisheries interests.

Mr. STUDDS. Although you are opposing it on precisely the same grounds that you opposed our efforts last year.

Mr. MOORE. I think to some extent that was the case. However, as a matter of degree the difference is enormous.

Mr. COHEN. Would you yield?

Mr. STUDDS. Yes.

Mr. COHEN. Has it affected our relationship with South America?

We had Brazil declare a 200-mile limit.

Have we engaged in sanctions against them?

Mr. STUDDS. We have rewarded them, Mr. Cohen.

Mr. MOORE. It has had an impact on our relations in that we have a number of problems with Peru, Equador, Brazil, and other countries that have claimed a 200-mile territorial sea.

I might also add that in those cases we had the good fortune to have the 200-mile territorial sea claim well out of the way of the principal navigational routes of the world so had they been located in the Mediterranean Sea in which the Mediterranean would be totally closed to foreign shipping, or if we had a 200-mile territorial sea claim in the approaches to the straits from which our principal oil supplies from some of the Middle East countries come, it could make a substantial difference.

Mr. STUDDS. Mr. Cohen has developed a point. You stated earlier that the United States has consistently protested claims by other nations.

Mr. Cohen clearly on the record stated the magnitude of our contribution to Brazil on the Shrimp Agreement.

I would like to read into the record the South American countries that claim the 200-mile jurisdiction. They are Argentina, Brazil, Chile, El Salvador, Ecuador, and Uruguay. Those nations may not lie in the major paths of the maritime routes of the world, but they happen to lie in the path of one of the major lobbies in this city. That is where they lie and I am getting a little impatient having the legislative policy of this Congress dictated to by you.

There are 36 nations that exert claims beyond the 12 miles jurisdiction that we recognize. That is coming close to the situation that you cite and quickly I just echo my impatience, as Mr. Cohen and Mr. Kyros did, with the attempt by the Department of State to solicit accolades and cheers from us with an announcement that you decided to enforce a law.

Again, I do not want to seem naive but I was brought up to believe that was the job of the executive branch of Government. And to come to us regardless of the delay involved and to essentially ask for praise because you have determined to enforce a law that is on the books, I find fairly breathtaking and I have really two questions after all that verbosity for which I apologize.

On page 19 of your testimony, Mr. Moore, the last page, you refer to H.R. 15619, the Dingell-Sullivan bill as we have come to know and love it, and you say with appropriate changes it is possible that H.R. 15619 or a similar measure rooted in existing international law could be a useful alternative to H.R. 8665 without the grave impact on our overall oceans and foreign relations interests.

You go on, given the agency for which you work, saying you need an opportunity for further study.

I do not know how long you need to study this. Our bill was introduced a year ago and I believe the Dingell-Sullivan bill was introduced several months ago.

First of all, I take it that you are familiar at least in the vague outlines with the Dingell-Sullivan bill based on the 1958 Convention on Conservation of the Living Resources of the High Seas.

Is it your understanding of that legislation that it would reach only to those nations that are signatory to that convention?

Mr. MOORE. This, of course, is one of the points that may make a difference between whether one is talking about the legislation in the Senate on this point or the Dingell-Sullivan bill.

Mr. STUDDS. I am talking about the Sullivan-Dingell bill.

Mr. MOORE. With respect to the Sullivan-Dingell bill the language is somewhat uncertain but it may apply to all the countries fishing off our coasts.

Mr. STUDDS. Including those not signatory?

Mr. MOORE. I would have to look at the bill carefully to make that determination but that is my understanding.

Mr. STUDDS. I assume that is why it needs further study on your part.

Would you support it if it applied only to the signatory countries to the convention?

Mr. MOORE. Certainly if it applied to the signatories of the convention only I would see no international legal issue at all, but we are prepared to work with the committee in studying the bill at this time with respect even to application to parties who may be nonsignatories to the 1958 convention.

Mr. STUDDS. Are you prepared to support the extension by statute of jurisdiction even if we say it is based on Article VII of that convention to countries which are not signatory to that convention?

Mr. MOORE. We did not feel that it would be useful for us to, in the abstract prepare——

Mr. STUDDS. I did not think that was very abstract. I thought that was fairly concrete and specific.

Mr. MOORE. I am not referring to your question as abstract.

We did not feel it was useful to prepare legislation of our own at this point without consulting carefully with the members of this committee as to the kind of approach possible, including an approach that might apply against nonparties to the 1958 convention and that would be acceptable to the members of this committee.

Mr. STUDDS. I am tempted to ask you to say that again. I am not sure what you said.

It has not been the policy of the department in the past to consult at least with most of the members of the committee.

You presented us with the High Seas Act of the administration last year which imaginatively extended our jurisdiction over American fishermen but not foreign fishermen.

Certainly, you did not consult with me or most of the members present on that legislation.

Why in the world have you not started this process if, as you say, you recognize the urgency of the situation?

Why at this point, over a year after we have introduced this emergency interim legislation are you saying it is time to study it?

Where is the sense of urgency?

Mr. MOORE. I think we have a clear view with respect to proposed interim legislation based on extensions of jurisdiction from 12 to 200 miles.

Mr. STUDDS. It is very clear.

Mr. MOORE. It would be useful to study with this committee as soon as possible the alternative approached based on article VII of the 1958 Geneva Convention.

Mr. STUDDS. Sometime this fiscal year? My office has not been informed and I would assume most offices have not been informed by the Department that they are eager, anxious or even willing to talk to us about the formation of legislation.

I would assume you would be delighted with the legislation. Let me refer to some of the signatories—Kenya, Upper Volta, Tanzania, Somalialand, Switzerland, Uganda, Fiji, and Tonga.

I hope you are serious. Speaking as the author of the principal legislation here, I think it is absolutely critical that we pass some legislation this year. Given the bizarre schedule of the Congress, that does not give us the normal time which people around here like to study things.

We are talking about matters of weeks that are left in this year.

Is the Department willing to attempt, given that time schedule to come up with legislation that could be enacted this year?

Mr. MOORE. We are certainly willing to study legislation with this committee—working with you in short time schedule.

We are talking about interim legislation here. We understand that it is something that is intended to get at our serious problem until the time that we can conclude a comprehensive Law of the Sea Treaty.

Mr. STUDDS. We are going to take you seriously on that and I expect you will be receiving communications from a goodly number of us like the majority of this committee who have been trying to get you for 2 years to talk constructively about it.

The Studds-Magnuson bill as you know is interim legislation. It goes into effect, as it is currently written in the House version, 90 days after it is enacted with respect to the major provisions and extension of jurisdiction.

How would you feel, just as a hypothetical question, if the effective date of that act were to be January 1, 1976, safely after you assure us we will absolutely and certainly have an international agreement?

Mr. MOORE. The difficulty with that approach is that the fundamental problem in one word is still unilateralism and the question is, will other nations so limit their acts that is it to take effect in that kind of a time frame and I would be very concerned that, in fact, we cannot control their unilateral actions. Their bills will not be written exactly as ours if we take the leadership in unilateral action.

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Mr. COHEN. Will you yield?

Mr. STUDDS. Yes.

Mr. COHEN. How about amending the hypothetical to propose January 1976 or as soon as a treaty is concluded, whichever occurs sooner?

Mr. MOORE. Since the schedule for the Law of the Sea Conference, that is, the General Assembly schedule, is no later than 1975, the existing provisions in the bill would achieve the same purpose.

All of this legislation we understand is intended to be interim in the sense that the Law of the Sea Treaty would take precedence.

Mr. COHEN. I understand your answer to Mr. Studds was that if we proposed and passed such legislation and we could not guarantee what the other nations responses might be it would not be consistent with dates and so forth, it seems to me if we put in 1976 or the conclusion of a treaty signed by all of the nations, whichever occurs first, there is really no problem.

Mr. MOORE. It would be a problem in the sense that would still be announcing to the world prior to the laws of the sea treaty that the United States is taking unilateral action.

Mr. COHEN. Taking no action you mean.

Mr. MOORE. I think it will be interpreted by others as a kind of threat of such action and we do not feel that they would necessarily be equally restrained in the action they might take.

Mr. COHEN. Do you recall Congressman Fraser testified before this committee and the question was posed to him and he answered quite candidly that many times the executive department exploits congressional action and initiatives in its bargaining process, and he answered, "Yes, indeed they do," and I pose the same question to you, and as I recall you said that is the type of question you should not answer, and I come back to the point—exactly the reason you have the Soviet Union who wants to discuss the 200-mile limit is because they know this Congress is going to take action, and we have been talking about it and the Senate is going to do something, so they see the handwriting on the wall and they want to do it by treaty.

Without the impetus by this body you would not have any treaty.

I support the Studds-Magnuson bill.

Mr. MOORE. Your question is fundamental. We should carefully ask what the impact of the legislation is on the negotiating process.

If, in fact, it is telling the world that we plan to go unilateral in an area that is important if we are to achieve other objectives, then rather than supporting and strengthening our bargaining hand, the effect of the bill would be to undercut our bargaining ability.

Mr. COHEN. What happens next year?

What if there is no agreement reached at the Convention next year, March, April, and May?

Would you then advocate that this country go to a 200-mile limit unilaterally since you profess we are in the main stream of modern thinking and it is necessary and there is a sense of urgency and just hold off we should have it by next year, would you then if the Convention does not conclude the treaty then urge a 200-mile limit unilaterally

What is your position?

Mr. MOORE. I do not feel that I could speak for the executive branch concerning future hypothetical situations.

I certainly do see a series of substantial costs in unilateral action, both to our fisheries interests as well as our other ocean interests, and we feel that the appropriate way to resolve these issues is through the international agreement.

Mr. COHEN. Well, I see no harm in putting other nations on notice that we would like to do it by treaty, but if not by treaty we will do it by legislation and declaration and put them on public notice.

That is exactly what this legislation purports to do. If they fail to negotiate we hope you will see the wisdom of our model act.

Mr. STUDDS. Mr. Chairman, I thank you for your patience.

May I ask just one more question?

Mr. CLARK. Yes.

Mr. STUDDS. I want to explore the possibility of your support for legislation. You base your objection on the fact that that would still constitute unilateral action.

I take it from that that you are opposed and the Department is opposed to unilateral action of any kind. Consequently when I look at your statement again that it is possible that the Dingell-Sullivan bill with some changes could be useful I take it the changes you have in mind are to remove any semblance of unilateral action.

Mr. MOORE. I would qualify your point by saying we oppose new claims which would be a violation of existing international law as perceived by most nations with whom we are negotiating and which are fishing off our coasts because we do not feel such claims would be productive.

With respect to article VII of the Geneva Convention that is, of course, an existing multilateral convention.

I think we would need to read carefully the International Court of Justice opinion in terms of the interaction between the article VII approach and what the Court may have indicated about protection of fish stocks and nondiscriminatory measures to conserve threatened stocks, but I think we would want to look very carefully at that and the possibilities under an article VII approach, and I am not at all certain that a carefully drawn bill would present a problem.

In fact, I rather think if the bill were carefully drawn under article VII, possibly even a bill which applied to nonparties to the convention, that it would not constitute a violation of international law today.

That is one of the things we want to study very carefully and quickly I might add, Congressman, with this committee.

Mr. STUDDS. With that kind of rhetoric you ought to consider politics. No wonder you did not reach agreement. You probably did not understand each other.

Mr. KYROS. I would like the record to be clarified to indicate that none of my displeasure was ever directed at these two gentlemen and certainly not to Mr. Howard Pollock, someone who I know has the deepest interest of all of us at heart.

Mr. CLARK. Mr. de la Garza?

Mr. DE LA GARZA. Thank you, Mr. Chairman.

Judging from the previous questions from my colleagues. I now come with an opposite viewpoint but nonetheless somewhat displeased at you gentlemen for some of your action at Caracas.

First, let me say that, of course, what the other gentlemen have said is true, this is an emotional issue we have to deal with, and I personally am not satisfied from the hearings I have attended, per-

sonal study, that scientific or technical data is conclusive as to what is diminishing certain species off our coasts in the Northeast and Northwest. I am not satisfied that fishing alone, foreign or domestic is the sole or approximate cause of the diminishing of any species. From my personal viewpoint and from my area there are many advocates that we not act unilaterally, this due to previous experience that has been detrimental to our area of Texas and the gulf.

Now, I would urge you to help my colleagues in the Northeast and the Northwest and I want to help them wherever possible, but not to the detriment of my area. Leaving that saide I would also like to mention to the gentleman from Massachusetts that when Mr. Truman made his unilateral declaration the Republic of Texas took him to court and won.

I might also further mention that the hearings that I have had the honor of presiding over the testimony there has not been overwhelming in favor of unilateral declaration.

Now, as to the Caracas meeting I had the privilege of attending the meetings there for 1 week and therefore I must qualify my statements that I only speak for that 1 week.

I had the privilege of meeting with some three-fourths of the delegations there informally through my own initiative or through the courtesy of members of the fishing industry and I am sorry to say, not through our delegation.

All that I met with were unanimous in their admiration and respect for Ambassador Stevenson and with which I concur.

I feel that perhaps our diplomatic posture there was such that we just did not have the votes. Had we acted otherwise, it probably would have been much more to our detriment and I think personally you, Mr. Ambassador, had a great deal to do with what success came from the way the session ended because it could have been detrimental as to how the votes were on the other side and it was only through diplomacy, personal or otherwise that we were able to achieve some degree of success.

Now, I personally as a Member of Congress felt and, I do not say this to have you think I am speaking personally, but I feel you did not utilize congressional representation to the fullest.

I never had the privilege of meeting with Mr. Moore while I was there and if I did any good for my country, which I think I may have, it was through my own intervention and not through working with our delegation.

I was not at all satisfied, Mr. Chairman, and I have so stated to Madam Chairman with the organizational concept, I felt that our delegation was somewhat disjoined or uncoordinated.

I had a vantage point in this because I went from committee to committee to make a roundrobin, to make sure I saw everything but I was not in a position where I wanted to get up and cheer for our side at some of those committee meetings and I was almost tempted to speak at one of them.

I was told this was an unfortunate single incident, but unfortunately it happened when I was there and I can only judge from that.

Now, having put that aside, what is our position and to what extent will we endeavor in the negotiations taking the foregone conclusion that we will have a 12-mile territorial sea and a 200-mile economic zone regarding preferential and/or historical fishing rights to what,

extent will we go to see that some recognition of that principle is afforded the countries that will participate?

Ambassador STEVENSON. Thank you very much, Congressman de la Garza.

We were very pleased to have you with us and I appreciate your personal comments.

As you know you and I had a talk shortly before you left and I think some of the points that you made were very well taken and I did take measures as a result of that to make sure that congressional representatives that we had with us later who were I think mostly from the Senate, did have greater opportunity to meet foreign delegations.

I think this, of course, did not help in your case, but I think it certainly helped in terms of their participation.

I think the members of this committee that were there with us at the prior session will recognize that the one incident you mentioned was really an exception. We certainly agreed that was one incident where the delegation did not perform up to expectations.

Turning to the substance, the concept of full utilization as a limit to coastal States' control over fisheries within the 200-mile zone is, of course, a principle that the United States has been urging very actively and which is also I think a key to getting general agreement because I think countries like the Soviet Union will want some opportunity if the coastal State is not taking all the fish that can be taken under sound conservation principles, to get at that resource rather than just having it go to waste.

I think this concept of full utilization has been one that a number of coastal countries are willing to accept.

I think the further point that you raise of once you get that full utilization concept accepted what are you going to do about protecting traditional fishing is a more difficult question because of some competing interests.

You have some countries that say we are much in favor of full utilization, but if there is anything that the coastal State is not taking we think that other States in the region should come in first.

Now, in our proposal we had in terms of the priorities listed traditional fishing ahead of other States of the region but there is also provision that if a particular country wants to give States of the region treatment like that of its own nationals, it can do so.

I think this is a difficult question, the question of how our own interests will best be protected which is something that we will have to consider very strongly.

I think clearly in some areas traditional fishing would help us.

I think that there is, of course, also the risk that we might get outvoted on priorities and if you have priorities that we might get a priority that would not favor traditional fishing so that I think my answer to you is that clearly full utilization is something that is very much in the negotiating ball park, but that the question of giving traditional fishing the highest priority is more difficult.

I think that answers the question.

Mr. DE LA GARZA. Ambassador, in answer to a question from one of my colleagues you stated that the delegations there did not seem to have sufficient authority to act without consultation.

From my personal visits I found this to be somewhat the case and I think this is just personally a suggestion to Mr. Moore, that I think our executive branch needs to intercede because I certainly would like as much as my other colleagues to conclude this next year.

I think our executive branch should be very forceful in trying to get the other nations participating to send the caliber of representative that can act immediately on the spot, and without consultation.

I know this is U.N. diplomatic protocol. I must consult, but if they must consult next year, the issues are there, the agenda is there and there will not be much leeway for consultation.

The executive branch has to see that the meeting would be concluded next year and not continue ad infinitum.

Ambassador STEVENSON. I think this is a very high priority because to reach agreement next year we do need very high level delegations with the necessary instructions.

I should also add and this is to some extent a comment on some of the prior statements which I did not have a chance to comment on that, I do not think that anyone in our delegation feels that to achieve agreement next year will be an easy matter.

It is going to be very, very tough to get agreement next year, but I think the real point we have been trying to make is that it is not going to get any easier.

We think next year is really the best opportunity we will have, and, therefore, we are very concerned that we have the opportunity to maximize that possibility.

Mr. DE LA GARZA. Thank you ,very much.

I might add that my suggestion to you about utilizing the congressional representation was in the working level and in the diplomatic level and you mentioned how I succeeded in helping some Members of the other body.

I only meant you should put to work the Members of Congress who attend these meetings or conferences.

Thank you, Mr. Chairman.

Mr. CLARK. Mr. Moore, I have two questions. I have a couple of others that I will put in the record.

Is the U.S. position on migratory species going to have to be modified in order to reach an agreement and if so, how?

Mr. MOORE. Mr. Chairman, we have, of course this last summer modified the U.S. position on anadromous species and to some extent clarified our position with respect to migratory species.

We feel it is very important that there be a regional or international approach to the management of highly migratory species just as anadromous stocks should be dealt with by management jurisdiction of the host state throughout the range of the stocks.

From time to time there are changes made in the specifics of our position. We think in both of these cases there were changes which strengthened our existing position and they were certainly changes which were aimed at protecting, the very important interests that we have in all of our distant water as well as our coastal fisheries.

Mr. CLARK. Is it not true that the Latin American or Asian and African countries desire full control and management responsibility of migratory species within their economic zone or their territorial waters?

Mr. MOORE. The 200-mile territorial-sea states which claimed that they have a legal right to all of the resources of the 200-mile territorial sea have sought complete management control over highly migratory species within that area.

This is one of the reasons we feel it is important that a solution to these problems should be sought in the comprehensive treaty. The problem of migratory species like that of coastal species is the common pool problem. A 200-mile economic zone or territorial sea can in no way answer that problem in the absence of special treatment for such species; it cannot answer it from a conservation standpoint; it cannot answer it from the standpoint of fishing efficiency. The answer must be international agreement.

Mr. CLARK. Mr. Cohen?

Mr. COHEN. I am referring to a letter dated September 13, 1974 directed to Mr. Sharood, minority counsel to this committee, and it is from Vice Admiral Percy of the U.S. Coast Guard.

I am going to read the last paragraph where he says:

> In response to Mr. Sharood's letter we know of no basis for your speculation that the law regarding Continental Shelf fishing resources will not be enforced. We have no reason to believe that the official U.S. position is different than that stated in the Department of State's request of May 2, 1974 to foreign governments that their fishermen be advised that U.S. enforcement officers will now begin to enforce U.S. Continental Shelf fishery resource rights to the fullest extent.

The question I have is did you send a notice to foreign governments and if so, did you put them on notice that the rights would be enforced to the fullest extent, and if so, why did you change that to December 5?

Mr. MOORE. I will call on Bill Sullivan to answer that and I will add one or two points to it, if I might.

Mr. SULLIVAN. In January when the lobster law was enacted we sent diplomatic notes to all of the governments fishing off the coasts of the United States informing them of this and telling them that we were going to enforce this.

Now, we told them in that note because this was new, that we would enforce with some restraint for a reasonable period so that the foreign fishermen could become acquainted with the new requirements.

We did not say we would not enforce it at all. We said that we would enforce in the case of flagrant violations, that in the case of nonflagrant violations we would exercise some restraint.

We followed that up with a note in May in which we stated that we felt sufficient time had passed for all fishermen to be aware of the new law and that we would then enforce it to the fullest extent.

The new procedure that will take effect in December is a result of our monitoring of this enforcement and our further evaluation of it and the conclusion that the steps we had taken so far were not totally adequate to check on compliance with the law when the incidental catch situation of bottom trawlers was involved, because it is very difficult to ascertain if Continental Shelf creatures are being taken in bottom trawls with the configuration of many of the foreign trawlers.

We cannot see from a distance from a Coast Guard cutter or from a Coast Guard aircraft if they are being taken in those trawls and therefore, we concluded that it was necessary to take the further step of actually boarding the foreign vessels that were using bottom trawls

to ascertain whether they were taking the lobster and this is the new procedure.

Again, we gave them a leadtime so they could be prepared for it.

Mr. COHEN. But you concluded that as of May of this year that the foreign vessels have had sufficient time with which to acquaint themselves with our law and at that point at least you were satisfied that you should begin full protection and prosecution against violators, is that correct?

Mr. SULLIVAN. Correct.

Mr. COHEN. Why do you have to wait until December? If they had enough time to know what the law is why do we now have to wait until December before you fully enforce it?

Mr. SULLIVAN. We are waiting for December to implement an additional enforcement mechanism because they had not become acquainted with this mechanism prior to the time it was announced in September, because it was then that we had determined that the additional mechanism was necessary to do what we had said in May.

Mr. COHEN. What I find very difficult to understand is why these modern fishing vessels which have radar, so far the most modern of equipment, suddenly need 9 months to a year's time in which to understand that the United States has a law which is designed to protect its lobster, that we have to wait for a year's time to elapse for the word to infiltrate down to the industry.

I think they know immediately that word is put out by the State Department that the United States is now going to take these measures and it would not take very long for them to respond.

Second, I would like to know whether or not the law as passed by Congress contained any exclusion or any different treatment with respect to Canadian vessels as opposed to Soviet and Japanese.

I tell you why I raise this question. In this letter to Mr. Sharood there is an exception apparently carved out that. First you have a courtesy basis. If a master does not invite boarding there is no recourse and when an intentional taking of a Continental Shelf fisheries source turns up except a Canadian vessel taking lobster or red crab et cetera, is there an exception that we recognize Canadian vessels as opposed to others?

Mr. MOORE. First, I would like to set out the fundamental dilemna we have in enforcement of fisheries off our coast.

We have jurisdiction over our Continental Shelf living resources. That is clear.

We do not have, except by limited bilateral or Commission agreements at this time, jurisdiction with respect to finfish stocks beyond 12 miles, our fisheries contiguous zone. The real issue, then, is what happens in cases in which basically the foreign government is fishing for finfish but it has an incidental catch of U.S. Continental Shelf fishery resources.

Mr. COHEN. You say incidental catch. It sounds so meager and minimal.

The fact is you are talking about possible hundreds of thousands of pounds of lobster.

Mr. MOORE. That is correct, it can be a very substantial incidental catch and in the Pacific Northwest the incidental catch only, or in the case of tanner crab, far exceed the catch permitted under international agreements, so it is something that has a serious impact on

our Continental Shelf resources. The question had always been, however, do we have jurisdiction if, in fact, the intention was to fish for finfish?

Now, we have by our new enforcement measures done something that is, in fact, a very major shift in our enforcement practices. We think it is justified by the threat to those Continental Shelf stocks. We think it is a lawful claim under international law, that it will do a number of things that we have not done before that we think will have a very substantial impact on protecting the stock off the east coast of the United States as well as off Alaska.

Those things are: first, we have not enforced as such against foreign vessels using bottom trawls, bottom tending gear simply because they were using such gear which would normally take on shelf resources.

Our new measures will be applied to all fleets which will be using bottom tending trawls. They have never been applied before to such bottom tending trawls in the absence of a deliberate taking of Continental Shelf creatures.

Second, under the new procedures there is no need to observe the taking of such creatures if in fact, the gear bottom used would normally result in their taking. The third point is that to avoid arrest—and here we are not merely talking about courtesy boardings, we are talking about something that is a full fledged enforcement measure under U.S. law—to avoid arrest if such gear is used there must be an agreement with the United States for the protection of our Continental Shelf fishing resources.

Mr. COHEN. Do you have a rule or is it a matter of law that vessels fishing beyond 200 meters can only be observed and not seized?

Mr. MOORE. There is no such rule to my knowledge, but certainly the new enforcement practices that we have under the new procedures apply throughout the range of the Continental Shelf to the use of bottom gear which can be expected to result in the catch of Continental Shelf living resources.

That is the last point I would like to make.

Mr. COHEN. You are not aware of any regulation or any law which would require the Coast Guard simply to observe those vessels fishing possibly for lobster beyond 200 meters without taking any action toward seizing the ship?

Mr. MOORE. I am not, Congressman, but I should say I am not an expert in the enforcement area.

I am not aware of any such laws on the books. I would like to defer to Mr. Sullivan for the answer to the question with respect to Canadian practices.

Mr. SULLIVAN. Mr. Cohen, the restraint on the action to be taken with regard to lobster beyond 200 meters was in the original instructions. It has been modified, however, and there is no restraint at the present time.

Mr. COHEN. When was that removed?

Commander LYNN. The requirement was removed in May of 1974.

Mr. COHEN. Was that following our hearings?

Mr. SHAROOD. That was preceding our hearings.

Mr. SULLIVAN. With regard to Canada we have not been applying this to Canadian vessels for several reasons. One reason is that the only deliberate fishery for lobster conducted off the U.S. coast other

than by Americans prior to the enactment of the law was by a few Canadian vessels.

We have traditionally dealt with situations off our coast and off the Canadian coast on a bilateral basis as neighbors and have not placed them in the same category as with regard to other foreign fisheries.

There are lobster off the Canadian coast that have been taken by American vessels.

Mr. COHEN. Does Canada have such a declaration involving the creatures of the shelf?

Mr. SULLIVAN. Canada has not declared the lobster as a creature of the shelf, but Canada generally considers the lobster to be Canadian and would look askance at a foreign fishery taking lobster off the Canadian coast.

In addition, part of this Canadian fishery off the U.S. coast is over a part of the Continental Shelf on Georges Bank which the United States considers pertains to the United States but which Canada considers pertains to Canada and that question has not yet been resolved and until the question has been resolved and until we have determined whether Canada would have any traditional fishing claims regarding lobster and until we have discussed whether Canada has any interest in prohibiting American lobster fishing off the Canadian coast, we have not been applying it and we intend to discuss these matters more fully with Canada.

Mr. COHEN. Could I go back to the original point? I find it intriguing that you would suggest that Canada would look askance at any nation that would start taking lobster off their coast when the State Department came in here and vigorously opposed our declaration of the lobster as a creature of the shelf and you are suggesting that we should not engage in sort of an action enforcing this legislation on the books because we might offend the Canadians.

I find this double standard to be really quite disconcerting.

Mr. SULLIVAN. Mr. Cohen, I would remind you that even before the law was enacted that we were taking steps to prevent foreign fishing on lobster off the U.S. coast.

We had reached agreement with the Soviet Union, with Poland and with Japan that there would be no lobster fishing off the east coast of the United States.

Mr. COHEN. The reason you are going this way is perhaps against your will and you have been very kind about sitting there. The reason we are having these hearings is that these bilateral agreements have not been effective and I have admitted this as you have in prior testimony and they are not effective because they have not been effectively enforced, is that not so?

I do not want to minimize your statement that we were taking action prior to the law being passed. It has not been very much in effect.

Mr. STUDDS. Would the gentleman yield?

Mr. COHEN. Yes.

Mr. STUDDS. I want to thank the chairman for his extraordinary patience.

In response to questions of Mr. Cohen, you gentlemen referred to notes sent by this Government to foreign governments in January, May, and September of this year.

Would it be possible for you to supply the committee with copies of those notes for inclusion in the record?

Mr. SULLIVAN. Yes.

Mr. STUDDS. I trust they were not classified.

Mr. MOORE. No.

Mr. STUDDS. I ask unanimous consent that they appear in the record at this point.

Mr. CLARK. Without objection.

[The information follows:]

NOTE OF JANUARY 18, 1974

The Secretary of State presents his compliments to Their Excellencies and Messieurs the Chiefs of Mission of the Governments whose fishermen have been known to or currently do fish in the Northwest Atlantic Ocean off the coast of the United States and others concerned with Northwest Atlantic fisheries, and has the honor to inform the Chiefs of Mission that the President of the United States on January 2, 1974 signed into law an Act (Public Law 93-242) adding "lobster" (Homarus americanus) to the list of continental shelf fishery resources which appertain to the United States.

As identified in the Convention on the Continental Shelf, 499 UNTS 311, and domestic United States legislation, the United States exercises over the American lobster (also known as northern lobster) and other continental shelf fishery resources located on its continental shelf soverign rights for the purposes of exploration and exploitation and such rights are exclusive in the sense that if the United States does not exploit these resources no one may exploit them without the express consent of the United States.

The United States will regulate the American lobster fishery with due consideration being given to the principles of conservation of the resource and the maximum sustainable yield from the fishery. It is a violation of United States law for any foreign fishing vessel to take and retain American lobster or any other continental shelf fishery resource from the continental shelf of the United States without the express consent of the United States. Heavy penalties may be imposed for such violation upon conviction in a court of the United States.

The United States seeks the active cooperation of all fishermen operating off its Atlantic coast in conserving and protecting the American lobster resource. Such fishermen are expected to return to the sea immediately any American lobsters which may be taken incidentally in the course of directed fisheries for other species found in the region. Fishermen who encounter concentrations of American lobsters in the course of their fishing operations should take immediate steps to avoid such concentrations in future tows. United States enforcement officers will act with discretion during a short period to allow fishermen operating in the region to become familiar with the new legislative requirements with regard to American lobster before enforcing the law to the fullest extent.

Warnings will be issued immediately in the case of observation of American lobster being caught and retained aboard fishing vessels not authorized to do so, and appropriate enforcement action may be taken at any time in the case of flagrant violations. Accordingly, it is requested that all fishermen operating in the region be informed of this matter as soon as possible. The cooperation of all Governments and fishermen will be appreciated.

The Secretary of State would be grateful if each Chief of Mission would forward this information to his Government.

Enclosures.

1. List of Addressees.
2. Excerpt from Public Law 93-242.

LIST OF ADDRESSEES

Government of Canada.
Government of the Czechoslovak Socialist Republic (in charge of Cuban Interests).
Government of Denmark.
Government of the Federal Republic of Germany.
Government of Finland.
Government of France.
Government of Great Britain.
Government of Greece.
Government of Iceland.
Government of Italy.

Government of Japan.
Government of the Republic of Korea.
Government of Mexico.
Government of Norway.
Government of the People's Republic of Bulgaria.
Government of the Polish People's Republic.
Government of Portugal.
Government of Spain.
Government of the Socialist Republic of Romania.
Government of the Union of Soviet Socialist Republics.
Government of Venezuela.

NOTE OF MAY 2, 1974

The Acting Secretary of State presents his compliments to Their Excellencies and Messieurs the Chiefs of Mission of the Governments whose fishermen have been known to or currently do fish in the Northwest Atlantic Ocean off the coast of the United States and others concerned with Northwest Atlantic fisheries, and has the honor to inform the Chiefs of Mission that the United States Government considers that a sufficient period of time has elapsed to allow fishermen operating in the region to become familiar with the new legislative requirements regarding American lobster as described in the Secretary of State's circular note of January 18, 1974.

United States enforcement officers have been informing fisheries of the new requirements concerning American lobster and of United States policy concerning continental shelf fishery resources generally. They have reported that the fishermen contacted were aware of the new requirements.

The United States Government appreciates the cooperation extended by other governments in bringing the contents of the Secretary's note to the attention of their fishermen and requests that they be informed that United States enforcement officers will now begin to enforce United States continental shelf fishery resource rights to the fullest extent.

In this connection, it is recalled from the January 18 note that "fishermen are expected to return to the sea immediately any American lobsters which may be taken incidentally in the course of directed fisheries for other species found in the region. Fishermen who encounter concentrations of American lobsters in the course of their fishing operations should take immediate steps to avoid such concentrations in future tows." Continental shelf fishery resources should be returned to the sea with a minimum of injury. We wish to note that these provisions apply for all United States continental shelf fishery resources, a list of which was enclosed with the Secretary's note of January 18, off any coast of the United States.

Enclosure: List of Addressees.

LIST OF ADDRESSEES

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Government of Finland.
Government of France.
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Government of the People's Republic of Bulgaria.
Government of the Polish People's Republic.
Government of Portugal.
Government of Spain.
Government of the Socialist Republic of Romania.
Government of the Union of Soviet Socialist Republics.
Government of Venezuela.

NOTE OF SEPTEMBER 5, 1974

The Secretary of State presents his compliments to Their Excellencies and Messieurs the Chiefs of Mission of the Governments whose fishermen have been known to or currently do fish in the waters adjacent to the coasts of the United States of America, and has the honor to inform the Chiefs of Mission of new guidelines for the enforcement of the rights of the United States to the living resources of the continental shelf.

Pursuant to the Convention on the Continental Shelf and international law, the United States exercises exclusive sovereign rights for the purposes of exploration and exploitation of the living resources of its continental shelf. These rights have been implemented by domestic legislation.

Any vessel taking continental shelf fishery resources of the United States will be subject to arrest and seizure, except as provided by the United States in bilateral agreements. For the purpose of determining whether such a taking has occurred, vessels may be boarded when engaging in either of the following acts:

(a) Fishing with gear which is designed specifically to catch continental shelf fishery resources of the United States, or

(b) Fishing with bottom gear (including bottom trawling gear) which would normally result in the catch of continental shelf fishery resources of the United States, except where the procedures used are designed to reduce and control such incidental catch pursuant to an agreement with the United States.

In those instances where the taking of continental shelf fishery resources does not result in a substantial catch and such taking does not appear to be deliberate or repeated, a warning will normally be given. In any event, fishermen are expected to return to the sea immediately any continental shelf fishery resources which may be taken incidentally in the course of directed fisheries for other species. Fishermen who encounter concentrations of continental shelf fishery resources in the course of their fishing operations should take immediate steps to avoid such concentrations in future tows.

To facilitate the transition in fishing methods required by these procedures, United States enforcement officers will act with discretion during a short period to allow fishermen operating in the region to become familiar with these procedures.

The boarding and where appropriate the arrest of any vessel pursuant to these procedures shall be in strict conformity with the above.

The effective date of these new procedures will be December 5, 1974.

The United States Government is prepared to enter into negotiations with any government for the purpose of establishing procedures designed to reduce and control the incidental catch of continental shelf fishery resources of the United States by fishermen using bottom gear (including bottom trawling gear).

The Secretary of State would be grateful if each Chief of Mission would forward this information to his Government.

Attachment: List of Addressees.

LIST OF ADDRESSEES

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Government of Denmark.
Government of the Federal Republic of Germany.
Government of the German Democratic Republic.
Government of Finland.
Government of France.
Government of the United Kingdom.
Government of Greece.
Government of Iceland.
Government of Italy.
Government of Japan.
Government of the Republic of Korea.
Government of Mexico.
Government of Norway.
Government of the People's Republic of Bulgaria.
Government of the Polish People's Republic.
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Government of the Union of Soviet Socialist Republics.
Government of Venezuela.

Mr. STUDDS. I begin to wonder even if we were successful in enacting legislation to extend our jurisdiction whether that would accomplish anything because we seem to hear on more than one occasion of the executive branch choosing for itself which laws or which parts of the laws it intends to enforce.

I would like to note that the bill which declared the lobster to be a creature of the shelf did not declare it to be a creature of 200 meters of the shelf.

What conceivable justification does the Department of State have for choosing to enforce only a part of that law even if you did it only for a little while?

Mr. MOORE. I defer to the Coast Guard on this.

Commander LYNN. Congressman Studds, there was only a procedural difference in any case. There were various reasons for giving some importance to the 200-meter line and for that reason we had our people reporting back by immediate precedence message so that we could bring the minds here to bear on the case.

We did not have the situation arise at any time during that period, and we have not had it at any time since.

Mr. STUDDS. But those initial instructions were not consistent with the law which the Congress mandated to be carried out by the Executive.

Commander LYNN. They were internal instructions that allowed us to carry out our enforcement, and we had given our commanding officers authority to board when they saw an intentional taking inside of 200 meters.

Mr. STUDDS. May I ask you whether or not the law which you are enforcing refers either to 200 meters or intentional taking?

Mr. MOORE. Congressman, could I respond to that? One of the difficulties under a provision that refers to the creatures of the Continental Shelf and one of the reasons that we would like a comprehensive law of the sea agreement is that there is no agreement on the outer edge of the Continental Shelf.

The 1958 Continental Shelf Convention makes it very clear that there is legal jurisdiction in the coastal State at least to 200 meters and beyond that to where the water depth permits exploitation so there is some problem or to the precise limit.

There is, then, some ambiguity as to where the outer edge of the Continental Shelf may be so, in fact, I think the initial approach to this was concerned with this question of what would happen if we were enforcing the claim against foreign nations in an area which exceeded something that was within U.S. jurisdiction under the Continental Shelf Convention.

It also, to the best of my knowledge, was something that did not say there would be no enforcement beyong 200 meters.

It was simply a precautionary measure that required a somewhat greater control in situations beyond 200 meters.

Incidentally, I agree with your doubts that were we to unilaterally extend our jurisdiction we would necessarily solve these problems.

Mr. STUDDS. Do you not agree with me that we would attempt to enforce the law?

Mr. MOORE. We would make every effort to enforce the law, as written, but as you have indicated to be effective this is largely something that would have to be done through agreements anyway.

So in the absence of others accepting the claim, as they will in the Law of the Sea Conference, we may well be back in the same old game

of bilateral agreements, except in the meantime they may well have said we are not going to respect any of these agreements we have entered into now because you are asserting a claim that may be fundamentally inconsistent with those agreements.

Mr. COHEN. Will you yield back?

Mr. STUDDS. Yes.

Mr. COHEN. Can I make this request of you? It seems we find ourselves in the position of finding out what the executive branch is doing about the laws we passed long after the fact.

Would it be a breach of your role, protocol, or procedure to request your Department to furnish copies of letters that you send to foreign governments or to enforce these particular laws that we pass?

We would like to be apprised of what you are actually doing to carry out the intent and mandate of Congress and if we could do that contemporaneously with the letters being sent we would not have to find out after the fact.

In May you sent out a letter that we are going to have full enforcement and then in September you say we are going to defer this to November.

In that way we would know where you would need a stronger expression from this committee.

Would that be possible for you to do that?

Mr. MOORE. We can make available these notes that you have requested and I think we would want to keep this committee apprised of any major change.

Mr. COHEN. Any matter that is not classified by the State Department.

I hesitate to suggest that qualification but anything that you would send out would pertain to the law which is passed, laws that are passed by this committee and this Congress, contemporaneous with other foreign nations as to what your notice is about.

Sometimes we feel like we are a part of the foreign nations.

I yield to Mr. Pritchard.

Mr. PRITCHARD. Mr. Chairman, maybe I was hearing things, but Ambassador Stevenson you said something to the effect of what Congress would do and what the Executive would agree to. Did I read a hint in there that you thought that the President might veto Mr. Studds' bill?

Ambassador STEVENSON. I think I was trying to make it clear that I was not passing judgment. Of course, the President is part of the legislative process and I think it is obviously up to him to decide.

Mr. PRITCHARD. Have you had any hint or had any indication of a course of action by the executive branch on this legislation?

Ambassador STEVENSON. You mean as far as a Presidential veto?

Mr. PRITCHARD. Yes.

Ambassador STEVENSON. I have not.

Mr. PRITCHARD. Do you feel at this point that you would urge and recommend a veto?

Ambassador STEVENSON. That will have to be an executive branch decision. I will tell you frankly I hope he would.

Mr. PRITCHARD. You would urge that course then?

Ambassador STEVENSON. That is my personal view.

Mr. PRITCHARD. And I guess the last question would be, do you see any chance that the State Department or the Defense Department will change their opinion on this 200-mile extension?

Ambassador STEVENSON. On the fishing bill?

Mr. PRITCHARD. Well, I have a feeling that we have talked for 3 hours on fishing, and we should have talked 15 minutes on fishing and 2 hours 45 minutes on the defense. I think that is where the weight lies in this whole proposition.

It is my understanding that the Defense Department is very adamant in opposing this extension. Have you seen any evidence of a softening on their part?

Ambassador STEVENSON. I think I indicated to you why they are very important national security and defense interests here.

Perhaps Professor Moore who is chairman of that interagency committee could more accurately reflect on that for you.

Mr. PRITCHARD. I thought you might say it quicker. You sometimes get to the point a little quicker.

Well, that is all I have.

Ambassador STEVENSON. If you are asking me, I do not have any indication of a change.

Mr. CLARK. Mr. Studds?

Mr. STUDDS. Gentlemen, one final thing. One of the principal ones who bears the guilt for the length of the session today is perhaps myself.

I think it should be said in all fairness that you are not the only folks who work slowly around here.

Last year both Houses of Congress passed a concurrent resolution, which you may remember, which said the Congress is fully prepared to act immediately to provide implementation measures to conserve overfished stocks and protect our domestic fishing industry.

I think we better look a little bit in our own house in this respect, literally and figuratively. We may be in contempt of ourselves as a result of this resolution, and I think one of the lessons that also has come from this is we have been negligent in our oversight responsibilities.

I know that you do not interpret any of the emotion and anger you have heard today as personal and I hope you will not interpret it as being directed solely at one institution of Government.

I think we can all use a little lubricant at this point. We do an awful lot of talking and I think it should be relatively easy to understand the anger of the fishermen at us.

I almost voted against this resolution at the time. I thought it was going to be just a bunch of words and here it is a year later we have done absolutely nothing in the long run, or the short run.

Mr. COHEN. With all deliberate speed.

Mr. STUDDS. I hope the Congress will give the President something he will be able to act on.

Just think what a strong position you will be in next year at Geneva if we had passed the bill, and he vetoed it, and we failed to override the veto by one vote.

You could say to the folks, this is the last time; we get an agreement, or else.

You might want to think about that.

Mr. CLARK. Thank you, very much. I thank all of you for your patience and we do appreciate your coming here and spending the afternoon.

The meeting is adjourned, subject to the call of the Chair.

[Whereupon, at 5:15 p.m., the committee adjourned, subject to the call of the Chair.]

APPENDIX

THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

(Caracas, Venezuela, June 20–August 29)

U.S. DELEGATION REPORT

1. Summary and overall evaluation of session

The object of the Law of the Sea Conference is a comprehensive Law of the Sea Treaty. This was not achieved at Caracas. It would be a mistake to regard the Caracas session as a failure however, as it accomplished a great deal: the foundations and building blocks of a settlement are now all present in usable form. A treaty can be achieved if detailed authentic negotiation takes place without delay.

Two underlying problems affect the evaluation of the session. First, events beyond the control of the Conference are tempting states to take matters into their own hands. Second, the Conference suffers from the carry over of a negotiating style more suitable for General Assembly recommendations or negotiation of abstract issues than texts intended to become widely accepted as treaty obligations affecting immediate interests of states in a dynamic situation. Tactics, rather than negotiation, was the rule.

Accomplishments of the session are considerable. Among the most important are the following:

(a) The vast array of Law of the Sea issues and proposals within the mandate of Committee II was organized by the Committee into a comprehensive set of informal Working Papers reflecting main trends on each precise issue. The large number of formal proposals were mainly introduced as a basis for insertions in these Main Trends Papers. All states can now focus on each issue, and the alternative solutions, with relative ease. A similar development occurred with respect to marine scientific research in Committee III.

(b) The transition from a Seabed Committee of about 90 to a Conference of almost 150 was achieved without major new stumbling blocks and a minimum of delay.

(c) The overwhelming majority clearly desires a treaty in the near future. Agreement on the Rules of Procedure is clear evidence of this desire to achieve a widely-acceptable treaty. The tone of the general debate and the informal meetings was moderate and serious. The Conference adopted a recommended 1975 work schedule deliberately devised to stimulate agreement.

(d) The inclusion in the treaty of a 12-mile territorial sea and a 200-mile economic zone was all but formally agreed, subject of course to acceptable resolution of other issues, including unimpeded transit of straits. Accordingly, expanded coastal state jurisdiction over living and non-living resources appears assured as part of the comprehensive treaty.

(e) With respect to the deep seabeds, the first steps have been taken toward real negotiation of the basic questions of the system of exploitation and the conditions of exploitation.

(f) Traditional regional and political alignments of states are being replaced by informal groups whose membership is based on similarities of interest on a particular issue. This has greatly facilitated clarification of issues, and is necessary for finding effective accommodations.

(g) The number and tempo of private meetings has increased considerably, and moved beyond formal positions. This is essential to a successful negotiation.

With few exceptions, the Conference papers now make it clear what the structure and general content of the treaty will be, the alternatives to choose from, and the blanks to be filled in, and even the relative importance attached to different issues. What was missing in Caracas was sufficient political will to make hard negotiating choices. The main reason was the conviction that this would not be

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the last session, which is the type of assessment that can easily be spread by treaty opponents. Nevertheless, the words "we are not far apart" were more and more frequently heard, at least in Committee II, insofar as the developing country assessment of U.S. positions is concerned.

The Conference has recommended to the UNGA that the next session be held "in Geneva from 17 March to 3 or 10 May, the latter date depending upon certain practical arrangements to be made with the World Health Organization, whose assembly was scheduled to open on 6 May in Geneva.

The Conference also agreed to recommend that the formal final session of the Conference should be held in Caracas for the purpose of signature of the final act and other instruments of the Conference. The successful conclusion of perhaps the most complex and divisive global negotiation ever held must be on the basis of state's real interests rather than abstract concepts. The momentum, albeit with fits and starts, tends to favor such negotiation. The U.S. can contribute to this by retaining its commitment to that end, and sticking to a pragmatic approach to problems; but all must now make the ultimate choice between symbols and achievement.

2. Committee I (seabed beyond the limits of national jurisdiction)

A. *General.*—Unlike other Committees, the entire range of issues under Committee I's mandate, with only one exception, had been reflected in alternative treaty articles prepared by the Seabed Committee. The one exception was the preparation of treaty articles on rules and regulations for deep seabed mining: a critical element of the U.S. deep seabed position. In previous sessions of the Seabed Committee, which worked on the basis of consensus, there had been considerable opposition to even a discussion of rules and regulations, which were referred to in notes and footnotes.

The Committee held one week of general debate in which the following trends emerged: A) a number of African and Asian delegations expressed their willingness to support an exploitation system that permitted different types of contractual arrangements in the early years of operation, coupled with a gradual phasing out of these systems in favor of direct exploitation. In this connection, the need to provide security of tenure and conditions that would attract entities with the necessary capital and technology was a prevalent theme in their statements; B) there was increased support among European delegations for a parallel licensing/direct exploitation system—Australia and Canada maintained their support for this approach; C) a large number of developing country delegations referred to the need to include dispute settlement machinery in the Authority.

The general debate was followed by a rapid reading of the Regime Articles in an informal Committee of the Whole, Chaired by Christopher Pinto of Sri Lanka. There were some reductions in alternatives and bracketed language on several articles. The majority received no alteration. The Informal Committee decided to discuss in detail major issues of disagreement rather than proceed to the texts on the Machinery. The three major issues selected were the exploitation system (Article 9 of the Regime), conditions of exploitation (Rules and Regulations), and economic implications.

B. *Exploitation system.*—The exploitation system (Article 9) was identified by many countries as the crux of the Committee I negotiations. During the Caracas session, the Group of 77 agreed on a single text for Article 9 which would permit the Authority to enter into a variety of legal arrangements, provided it maintained "direct and effective control at all times."

A number of developing country delegations throughout the last weeks of the session began to call for serious negotiations on Article 9. Three delegations threatened voting instead.

Several delegations indicated a willingness to discuss formulas which might include the concept that the Authority's control over resource exploitation would be exercised in accordance with certain broad general principles to be laid down in the Convention.

Jamaica introduced a proposal for Article 9 that includes such general principles, together with the requirement that the Authority promulgate rules and regulations within this framework.

In the closing days of the session, after earlier resistance to discussion of the context of general conditions of exploitation, Committee I established a Negotiating Group with the mandate to consider Articles 1–21, placing special emphasis in its work on both Article 9 and conditions of exploitation. The Negotiating Group met several times and engaged in very constructive discussions on the Group of 77 text for Article 9. There emerged in these exploratory talks a definite

willingness on the part of a number of delegations supporting that text to explore changes in the text without commitment.

C. *Conditions of exploitation (rules and regulations).*—After completing the debate on the exploitation system and three weeks before the end of the session, Committee I arrived at the agenda item of rules and regulations for deep seabed exploitation.

The U.S. Delegation made clear the importance which it attached to a full and comprehensive discussion of the issues involved in the conditions of exploitation. A lengthly, off-the-record statement was delivered that explained in detail the purpose of rules and regulations, why the U.S. considered it important that they be included in the treaty, and our difficulties with moving further in the Committee I work without an agreed commitment that conditions of exploitation were to be included in the treaty.

The Group of 77 decided to prepare their own text of basic conditions of exploitation, and indicated a willingness to create some formal mechanism for discussing and negotiating this issue.

The draft text on basic conditions of exploitation that emerged from the Group of 77 was for the most part an elaboration of their proposal on Article 9, granting almost complete discretion to the Authority in very general terms to make decisions concerning exploitation, so as to protect land-based producers and give the Authority "direct and effective control" over all operators. In certain areas it described in greater detail how the Authority should maintain control and sprinkled throughout were the seeds of ideas that might be converted into treaty articles to protect investment.

In addition to the Group of 77 proposal on basic conditions, draft rules and regulations were submitted to Committee I by the U.S., by Japan, and by eight members of the European Community.

D. *Economic implications.*—Committee I devoted several days of on-the-record debate to the issue of economic implications. Land-based producers of the metals contained in manganese nodules had in previous sessions of the Seabed Committee succeeded in winning widespread support for price and production controls, but the high profile given this issue during the Caracas session resulted in two new developments:

(a) Detailed presentations and question-and-answer periods with representatives of UNCTAD and the Secretary-General served to highlight the great uncertainty regarding any threat that the ocean mining industry may pose for the economies of developing country producers of the metals contained in nodules.

(b) Several developing country representatives made public statements on the need to protect consumers from artificially high prices. This had never occurred in the Seabed Committee.

The U.S. Delegation submitted a Working Paper and made statements that pointed out the interests of all consumers in encouraging seabed output, the unlikelihood that the income of existing producers would decrease, even with seabed production, and the inherent difficulties and adverse effects of schemes to protect land-based producers. Several developing countries expressed a willingness not to require protective measures in the convention itself, and an insistence that a balance between consumer and producer interests be structured into whatever machinery was created for dealing with the potential problem.

E. *Evaluation.*—The work of Committee I advanced during the Caracas session. The inclusion of conditions of exploitation in the convention is widely accepted. However, the proposals for such conditions are at considerable variance with each other. Further, the Committee's discussion of economic implications led to a greater understanding of the complexity of the issue, coupled with a growing awareness among developing country delegations that the interests of their consumers might be damaged in attempts to protect a small number of developing country land-based producers who account for a minority share of the world's output, although the land-based producers continued to call for developing country solidarity. Most importantly, there was a new, more serious mood in the Committee that indicated an understanding that genuine negotiation is needed if an agreement is to be concluded. This mood, although intangible, can be demonstrated in the following developments:

(1) Most delegations opposed the Chairman's initial plan for two weeks of general debate—they wanted to get to work immediately;

(2) During the third reading of the Regime Articles, certain differences which were previously insurmountable were easily removed e.g.,

(a) The key Article on the common heritage concept was reduced from four to two alternatives—it would have been unanimously agreed but for the refusal

of only a handful of delegations to add language to the principle of the common heritage;

(b) The differences over the Authority's power to regulate scientific research, which had been addressed in several different Articles, were restricted to only two Articles in the Regime;

(3) The Group of 77 was able to agree among themselves on what they believe to be a more flexible approach to Article 9, and agreed to discuss Article 9 along with the conditions of exploitation;

(4) An attempt by several land-based producers and a few others to prohibit reference to the conditions of exploitation in the debate on Article 9 was defeated;

(5) The Jamaican proposal for Article 9, although significantly different from that of the Group of 77, was supported by several developing country representatives. This proposal was subsequently made a general footnote to the Articles;

(6) Proposals for basic conditions of exploitation were presented and a Working Group for negotiating this issue, together with Article 9, was established;

(7) In various general statements and in all drafts of the basic conditions, the need to ensure an attractive and secure investment climate for deep seabed exploiters was acknowledged;

(8) Efforts by a few delegations to rally support for a vote on Article 9 did not succeed;

(9) Attempts by several land-based producers to prevent informal economic seminars on economic implications were unsuccessful;

(10) Efforts by a few delegations to obstruct progress in the Negotiating Group did not succeed;

(11) The principle of compulsory settlement of disputes and the establishment of a dispute settlement organ in the Seabed Authority was widely endorsed.

3. Committee II

The following are excerpts from the final summing-up of the Chairman of Committee I on August 28 (DOC.A/Conf. 62/C.2/L.86):

In 13 informal Working Papers the officers of the Committee summarized the main trends with respect to the various subjects and issues, as they had been manifested in proposals submitted to the United Nations Seabed Committee or at the Conference itself. . . . In view of the nature and purpose of those papers, each of them had been submitted to the Committee in formal working meetings. Thus all the members of the Committee have had the opportunity to make observations on these papers in their original versions and in their first revised versions. After considering those observations in detail, the officers prepared a first and, in almost all cases, a second revision of the papers which, by agreement of the Committee, is the final version.

Thus what we have is the collective work of the Committee which, with the limitations and reservations to be indicated in the general introduction and, in some cases, in the explanatory notes accompanying certain of the papers, is a faithful reflection of the main positions on questions of substance that have taken the form of draft Articles of a convention.

Assembling these papers in a single text, with consecutive numbering makes it possible to present in an orderly fashion the variants which at this state of the work of the Conference are offered for consideration by states with respect to the subjects and issues falling within the Committee's competence.

This document, in my opinion, should serve not only as a reference text relating to the most important work done by the Committee at this session but also as a basis and point of departure for the future work of this organ of the Conference. It would be senseless to begin all over again the long and laborious process which has led us to the point where we now stand.

No decision on substantive issues has been taken at this session, nor has a single Article of the future Convention been adopted, but the states presented here know perfectly well which are at this time the positions that enjoy support and which are the ones that have not managed to make any headway.

The paper that sums up the main trends does not pronounce on the degree of support which each of them had enlisted at the preparatory meetings and the Conference itself, but it is now easy for anyone who has followed our work closely to discern the outline of the future Convention.

So far each state has put forward in general terms the positions which would ideally satisfy its own range of interests in the seas and oceans. Once these positions are established, we have before us the opportunity of negotiation based on an objective and realistic evaluation of the relative strength of the different opinions.

It is not my intention in this statement to present a complete picture of the situation as I see it personally, but I can offer some general evaluations and comments.

The idea of a territorial sea of 12 miles and an exclusive economic zone beyond the territorial sea up to a total maximum distance of 200 miles is, at least at this time, the keystone of the compromise solution favored by the majority of the states participating in the Conference, as is apparent from the general debate in the Plenary meetings, and the discussion held in our Committee.

Acceptance of this idea, is, or course, dependent on the satisfactory solution of other issues, especially the issue of passage through straits used for international navigation, the outermost limit of the continental shelf and the actual retention of this concept and, last but not least, the aspiration of the land-locked countries and of other countries, which, for one reason or another, consider themselves geographically disadvantaged.

There are, in addition, other problems to be studied and solved in connection with this idea, for example, those relating to archipelagos and the regime of islands in general.

It is also necessary to go further into the matter of the nature and characteristics of the concept of the exclusive economic zône, a subject on which important differences of opinion still persist.

On all these subjects substantial progress has been made which lays the foundations for negotiation during the intersessional period and at the next session of the Conference. (End of quotation)

A. *Territorial sea.*—Agreement of a 12-mile territorial sea is so widespread that there were virtually no references to any other limit in the public debate. Major conditions for acceptance of 12 miles as a maximum limit were agreement on unimpeded transit of straits and acceptance of a 200-mile exclusive economic zone. A variety of articles have been introduced on the territorial sea regime which, for the most part, parallel the provisions of the 1958 Territorial Sea Convention.

B. *Contiguous zone.*—The contiguous zone is an area where the coastal state may take measures to prevent and punish infringement of its customs, fiscal, immigration, and sanitary laws in its territory or territorial sea. Its maximum limit is 12 miles under the 1958 Territorial Sea Convention. Some states seem to feel that with the establishment of a 12-mile territorial sea, the contiguous zone has become superfluous. Others would like it extended to an area beyond 12 miles.

C. *Straits.*—The introduction of the U.K. Articles was the major event of the session, as the U.K.—as both a maritime power and a state bordering the most heavily used strait in the world—necessarily sought an accommodation of the interests involved. These articles were well received. The U.S.S.R. and Oman introduced articles on straits as well. In general, there was a trend in the direction of unimpeded passage. While there was little public movement toward conciliation on the part of the straits states, debate was less heated. The U.S. made a statement reiterating the fundamental importance of unimpeded passage on, over, and under straits used for international navigation, and addressed means of accommodating the concerns of straits states with respect to security, safety, and pollution. The U.S. also made it clear that distinctions regarding the right of passage could not be made between commercial vessels and warships.

D. *High seas.*—Discussion centered on issue of whether or not the high seas regime, as modified with respect to fishing, etc., would apply in 200-mile zone beyond the 12-mile territorial sea. The U.S. sponsored draft articles on this issue, on fishing beyond the economic zone, and also co-sponsored articles providing for hot pursuit from the economic zone and continental shelf.

E. *Access to the sea.*—There was little visible progress on the issue of landlocked state access to the sea, although there appears to be growing recognition among coastal states that the question needs to be dealt with fairly. Negotiation of the issue is probably tied to some extent to the question of access to and benefits from the resources of the economic zone.

F. *Archipelagos.*—The Bahamas, Fiji, Indonesia, Mauritius, and the Philippines strongly advocated adoption of the archipelago concept. The issue has been complicated by the addition of arguments for archipelagic treatment of island groups belonging to continental states, with substantial differences of view indicated in conference statements on this issue. It is widely recognized that the key issues of definition and transit of archipelagic waters must be resolved for a satisfactory accommodation on the issue.

G. *Economic zone and continental shelf.*—(I) General: Over 100 countries spoke in support of an economic zone extending to a maximum limit of 200

nautical miles. With respect to the content of the zone; there is widespread support for the following:

(a) Coastal state sovereign or exclusive rights for the purpose of exploration and exploitation of living and non-living resources;

(b) Coastal state rights and duties with respect to pollution and scientific research to be specified, presumably in the Chapters of the Convention being prepared in Committee III.

(c) Exclusive coastal state rights over artificial islands and most installations;

(d) Exclusive coastal state rights over drilling for all purposes;

There is also general agreement that there would be freedom of navigation and overflight in the economic zone, as well as other third state rights such as laying and maintenance of submarine cables and pipelines. Provisions for the accommodation of uses in the zone would be included.

It is also widely recognized that a variety of detailed provisions regarding coastal state and third state rights in the economic zone will determine whether this overall framework can be translated into a generally acceptable treaty. Virtually all these details, in alternative form, are now present in the informal Working Paper (No. 4 on the Economic Zone) thus laying a clear foundation for negotiation and decision of these issues. With a few exceptions, economic zone proposals have now been proffered from all conference groups, including the U.S. These proposals have been incorporated into the alternative texts on main trends.

The major problems encountered in the economic zone negotiation center on the following points:

(1) What are the rights of the coastal state with respect to scientific research and vessel-source pollution? The issues are being dealt with in Committee III and are discussed in Section 4 of this Report.

(2) Do the rights of coastal states over the seabed and subsoil resources of the continental shelf extend beyond 200 miles where the continental margin extends beyond that limit? While a trend toward agreement on such jurisdiction is discernible, with some states declaring that such jurisdiction is a condition of agreement for them, there has been resistance from landlocked and geographically disadvantaged states, and from some African coastal states. The U.S. proposal of an accommodation that includes coastal state jurisdiction over the margin coupled with revenue-sharing as a solution to the problem is picking up additional support, but is still strongly opposed by some coastal states with large margins. The idea proposed by some landlocked states that they have rights of access to mineral resources of adjacent coastal states has met strong and widespread opposition.

(3) What are the duties of the coastal states with respect to conservation and full utilization of fish stocks? What are the rights of access of landlocked states to fisheries? What is the role of regional and international organizations in fisheries management? What special provisions should be included for highly migratory species and for anadromous species? Section (II) below addresses the fisheries question.

(4) What principles apply to the delimitation of the economic zone or continental shelf between adjacent and opposite states? Any precise formula will tend to divide the Conference, since for each coastal state that supports a particular rule—e.g., equidistance—another naturally reacts in fear that it will lose some area. This problem has in turn given rise to arguments over the weight to be given to islands in such delimitation and, even further, to arguments that small or uninhabited islands are not entitled to an economic zone at all. The realization is growing that the Conference could become hopelessly bogged down if it tries to deal definitively with essentially bilateral delimitation problems.

(5) Collateral political and other issues. Numerous proposals have now been introduced regarding islands or areas under foreign domination or control. While most are now designed to ensure benefits for the local inhabitants, some go farther and address questions of administration or total denial of rights. Similarly, other questions have been raised that are more appropriately considered in other forums.

(6) The Legal Status of the Economic Zone. It is clear to all that the economic zone is not a territorial sea. It is equally clear that some classic high seas freedoms will be eliminated (e.g., fishing) or modified, while others, subject to the provisions on pollution), will be retained (e.g., navigation and overflight). It appears that the provisions of the Convention regarding coastal state rights will need further elaboration before some states feel secure enough to grapple with the issue in precise terms.

In an effort to mollify such concerns, the U.S.—after consultation with a number of coastally-oriented states—introduced the following text:

The regime of the high seas, as codified in 1958 United Nations Convention on the High Seas, shall apply as modified by the provisions of this Chapter and the other provisions of this Convention, including, inter alia, those with respect to the Economic Zone, The Continental Shelf, the Protection of the Marine Environment, Scientific Research and the International Sea-Bed area.

(7) Dispute Settlement. Since the heart of the economic zone negotiation turns on a balance of rights and duties, the question of dispute settlement becomes a critical element. On the one hand, guarantees are sought against unreasonable interpretations, particularly as they affect navigation and overflight. On the other hand, a measure of coastal state resource management discretion is clearly inherent in the exercise of resource jurisdiction. The dispute settlement question is also examined in Section 5 of this Report.

There appears to be a genuine desire to negotiate on these questions, and they are likely to dominate regional and international consultations before the next session.

(II) Fisheries: The maritime nations, in particular the U.S., U.K., and U.S.S.R., made significant moves toward increased coastal states rights. In early August the U.S. tabled draft Articles setting forth in detail a 200-mile economic zone system, which implemented its earlier expression of a willingness to accept a 200-mile economic zone as part of satisfactory overall settlement of conference issues including unimpeded transit of straits, and dependent on a concurrent negotiation and acceptance of correlative coastal state duties. These duties would include a duty to conserve fisheries and a duty to permit foreign fishing under coastal state regulation where a fishery resource is not fully utilized, and international and regional cooperation in establishing equitable conservation and allocation regulations for highly migratory species such as tuna, that includes fees and special allocations for the coastal state in the economic zone. Additionally, we reiterated our position on special treatment for anadromous species such as salmon. Three main approaches seem to have emerged with respect to fisheries in the economic zone. One is complete exclusively, with no coastal state duties. Another is the U.S. type approach, which couples exclusive coastal state regulation with conservation and full utilization duties. A third, exemplified by the Articles presented by 8 EEC states, emphasizes the role of regional organizations.

While advocates of the first approach dwelt largely on conceptual arguments in the public meetings, private discussions tend to reveal more flexibility.

It is widely recognized that there should be special provision regarding land-locked state access to fisheries. In the U.S. Articles this is presented in conjunction with the full utilization concept, but a coastal state is free to give special priority to neighboring landlocked and dependent coastal states.

The provisions on highly migratory species in the U.S. Articles represent a large conceptual and substantive shift in the hope of finding reasonable accommodation. A large number of developing country delegates have commented favorably on the U.S. move.

In response to conceptual problems with jurisdiction following salmon beyond the economic zone, the U.S. has now proposed a ban on fishing for salmon beyond the territorial sea, except as authorized by the state of origin for purposes of ensuring full utilization.

Despite these positive signs, the failure to come to grips with the question of access and full utilization still plagues the negotiation, and is of central importance to the ultimate ability of the Conference to accommodate widely disparate interests on the subject.

(III) Continental shelf: Draft articles on the continental shelf were contained in L. 4 (Canada, Chile, Iceland, India, Indonesia, Mauritius, Mexico, New Zealand, and Norway) and in L. 47 (U.S.). Coastal state jurisdiction beyond 200 miles, reflected in both submissions, was the major theme of debate. Other issues such as limits between states remain divisive.

Formal debate presented an opportunity for states favoring extention of coastal state jurisdiction beyond 200 miles and for those favoring a limit of 200 miles to present their positions. African states speaking, with exception of Mauritius, generally advocated the position in the OAU Declaration against coastal state jurisdiction beyond 200 miles. Other opposition came principally from land-locked and other geographically disadvantaged states plus Japan. States in favor of coastal state jurisdiction over the continental margin beyond 200 miles included numerous Latin Americans and Asians, Western Europeans, Canada, Australia, New Zealand, and Mauritius. The Soviet Union supports jurisdiction

beyond 200 miles to a depth of 500 meters. A number of states from different geographical groups made equivocal statements suggesting that they might be persuaded to accept coastal state jurisdiction beyond 200 miles.

The subject of revenue sharing from continental shelf resources was not extensively debated in formal Committee sessions. The U.S. proposal for revenue sharing beyond 200 meters and the Netherlands proposal for a graduated revenue sharing dependent on a combination of distance and depth are the only two proposals under formal consideration by the Conference. Trinidad and Tobago, Ghana and Jamaica referred to the concept as presenting a possible accommodation of interest, and Burma spoke in opposition.

The United States proposal relating to integrity of investment is the only provision on the subject under consideration. It did not figure prominently in debate, but is contained in the alternative texts developed by Committee II on the Economic Zone.

Numerous positions regarding delimination of continental shelf boundaries between adjacent and opposite states were advanced. Treatment to be accorded islands greatly complicated this issue. Some states are insisting that islands receive the same treatment as continental areas. Others are seeking to exclude or limit jurisdiction around islands.

4. Committee III

Committee III established two informal Working Groups where most work was done. One, on pollution, was chaired by Jose Vallerta of Mexico who chaired the equivalent Working Group in the Seabed Committee. The other, on scientific research and transfer of technology, was chaired by Cornel Metternich of the Federal Republic of Germany.

A. *Marine pollution.*—Committee III met 22 times in informal session as a small negotiating group to deal with marine pollution issues. Draft articles were completed on general obligations to prevent pollution, particular obligations, global and regional cooperation, technical assistance, rights of states to exploit their resources, and the relevance of economic factors to developing countries' obligations. These texts were not fully agreed and the U.S., among others, opposed the last two in their entirety. Work was begun on rights to set standards and to enforce them, and on monitoring. The Committee did not begin consideration of state responsibility and liability, sovereign immunity or settlement of disputes.

The major item of contention in this discussion was the double-standard issue raised by Brazil, India and several other developing countries. The focus of discussion was on an Indian proposal to subject all obligations of states to their national environmental and national economic development policies. The U.S., U.K., Japan, and several other Europeans strongly opposed this approach. Some developing countries, such as Jamaica, supported a more restricted concept to give flexibility to developing countries only with regard to land-based pollution.

At the next session, the Committee will begin with the article on monitoring and then take up standard-setting and enforcement rights. The basic problem of vessel-source pollution remains to be addressed, although a trend against coastal state standard setting is already evident, particularly with respect to construction standards.

Negotiations have moved to the point of beginning on the major controversial issues of standards and enforcement, particularly regarding vessel-source pollution. Private negotiations and consultations indicated considerable detailed consideration of specific problems and a willingness to discuss realistic solutions.

B. *Scientific research and transfer of technology.*—The Informal Working Group on Scientific Research and Transfer of Technology held 21 meetings during this session, either in informal session or as a negotiating group.

Initially, there was an attempt to elaborate a definition of scientific research drawing from the definition elaborated by the Seabeds Committee which excluded industrial exploration and specified that such research should be conducted for peaceful purposes. Several proposals were made by developing countries to delete these two qualifications. After inconclusive discussion, the informal committee decided to put the definitional question aside.

Agreement, however, was reached on general principles for the conduct of research as well as obligations for international and regional cooperation. The general principles include a requirement that scientific research be conducted exclusively for peaceful purposes; a clause dealing with non-interference with other uses; a requirement that research comply with applicable environmental regulations; and agreement that research activities shall not form the legal basis for any claim to any part of the marine environment or its resources.

The most important issues, and those on which there was the greatest divergence of views, centered upon research in the economic zone and the international seabed area. As deliberations neared conclusion four major trends emerged. Those trends were set forth in the Report of the Working Group which is expected to form the basis for negotiations at the next session.

One of those trends was tabled by Colombia and is stated to represent "The consensus of the Group of 77 of the Third Committee, without committing the final position of the members of the Group." This proposal provides that all research in the economic zone—including that conducted by satellites and ODAS—requires the explicit consent of the coastal state. Research in the international area would be conducted directly by the International Authority or under its regulation or control.

The second trend, although not based on a formal proposal, follows the language of the Continental Shelf Convention and provides that while consent is required to conduct research in the economic zone, this consent shall not normally be withheld when certain conditions are met. It contains no reference to research in the international area.

The third trend provides for an agreed set of international requirements for the conduct of research in the economic zone in lieu of a requirement to obtain coastal state consent. Research in the international area may be carried out by all states. Document A/Conf. 62/C. 3/L. 19, co-sponsored by 17 countries, reflects the substance of this third trend. The co-sponsors include 11 developing countries.

The fourth and final trend provides for total freedom to carry out research in the economic zone "except that marine scientific research aimed directly at the exploration or exploitation of the living and non-living resources shall be subject to the consent of the coastal state. In the international area, all states have the freedom to carry out marine scientific research related to the seabed, subsoil and superjacent waters."

In addition to the above, proposals were made with respect to the legal status of marine research installations and the responsibility and liability of those conducting research. These proposals, however, were not formally discussed at this session.

With the identification of the four main trends of proposals for the conduct of scientific research in the ocean, it appears that the Conference at its next session will be in a position to concentrate on reducing these texts to a single set of articles on scientific research.

Nigeria and Sri Lanka introduced separate formal proposals on technology transfer. Sri Lanka formally withdrew its proposal and joined with Nigeria and about 20 others in co-sponsoring a subsequent proposal on technology transfer (Document A/Conf. 62/C/3/L/12). This proposal calls for transfer of technology, including the facilitation of transferring patented and non-patented technology, through agreements under equitable and reasonable conditions. It requires, inter alia, that the Authority ensure that legal arrangements with respect to seabed activities provide for the training of developing state nationals, and that all patents on machinery and processes for exploiting the international area be made available to developing states upon request.

5. Dispute settlement

In the latter part of the session about 30 states from all regions interested in dispute settlement met informally on a regular basis to discuss ideas and provisions for the dispute settlement chapter of the convention. The Group was chaired by Ambassadors Galindo Pohl of El Salvador and Harry of Australia. The result is a Working Paper containing alternative texts on basic provisions introduced during the last week of the Conference by Australia, Belgium, Bolivia, Colombia, El Salvador, Luxembourg, Netherlands, Singapore, and the U.S. (A/Conf. 62/L.7), and supported by most members of the Group.

Aside from Committee I, there has not been much public debate in the Conference on dispute settlement, although there are many states that regard it as a critical aspect of the negotiations.

The new paper (Doc. L. 7) is likely to stimulate further study and discussion during the period before the next session of the Conference.

The paper resulted from some of the most serious and constructive meetings of the entire session. It contains draft alternative texts, and notes indicating relevant precedents, on eleven points as follows:

(1) Obligation to settle disputes under the Convention by peaceful means.

(2) Settlement of disputes by means chosen by the parties. These texts deal with agreement by States to resolve a dispute by means of their own choice.

(3) Clause relating to other obligations. The issue dealt with is whether, in the absence of express agreement to the contrary, precedence is given to the procedures in the Convention or other procedures accepted by the parties entailing a binding decision.

(4) Clause relating to settlement procedures not entailing a binding decision. In a situation in which a dispute is referred to non-binding procedures, these articles deal with the question of when a party is entitled to invoke applicable binding procedures under the Convention.

(5) Obligation to resort to a means of settlement resulting in a binding decision. Three alternative forums are described in connection with the obligation: Arbitration, a special Law of the Sea Tribunal, and the International Court of Justice.

(6) The relationship between general and functional approaches. During the discussion, there was considerable support for special functional forums in connection with some issues. The most widely discussed was a special Dispute Settlement Forum within the Seabed Authority. The issue addressed here is whether, and to what extent, there is resource from a special functional forum to the general procedures established by the Convention.

(7) Parties to a dispute. These texts establish that the dispute settlement machinery would be open to State Parties to the Convention, and then addressed the issue of whether, and the extent to which, international organizations, and natural and juridicial persons, could be involved.

(8) Local remedies. The texts deal with the question of exhaustion of local remedies.

(9) Advisory jurisdiction. The question addressed is whether a national court, duly authorized by domestic law, may request an advisory opinion from the Law of the Sea Tribunal on a question relating to the interpretation or application of the Convention.

(10) Law applicable. The question addressed is whether and under what circumstances rules, in addition to the Law of the Sea Convention, may apply, including bilateral agreements, regulations of international organizations pursuant to the Convention, and the right of Parties to agree to seek a settlement ex aequo et bono.

(11) Exceptions and reservations to the dispute settlement provisions. The issue addressed is whether, and with respect to what issues, there would be exceptions to the dispute settlement obligations of the Convention.

ANNEXE—OFFICERS OF THE CONFERENCE

Officers of the Conference and Membership of the General Committee, the Drafting Committee and the Credential Committee.

President: Mr. Hamilton Shirley Amerasinghe, (Sri Lanka).

Vice-Presidents: Algeria, Belgium, Bolivia, Chile, China, Dominican Republic, Egypt, France, Iceland, Indonesia, Iran, Iraq, Kuwait, Liberia, Madagascar, Nepal, Nigeria, Norway, Pakistan, Peru, Poland, Singapore, Trinidad and Tobago, Tunisia, Uganda, Union of Soviet Socialist Republics, United Kingdom, United States, Yugoslavia, Zaire, Zambia.

Rapporteur General: Mr. Kenneth O. Rattray (Jamaica).

COMMITTEE I

Chairman: Mr. Paul Bamela Engo (Cameroon).
Vice Chairman: Brazil, German Democratic Republic, Japan.
Rapporteur: Mr. H. C. Mott (Australia).

COMMITTEE II

Chairman: Mr. Andres Aguilar (Venezuela).
Vice Chairman: Czechoslovakia, Kenya, Turkey.
Rapporteur: Mr. Satya N. Nandan (Fiji).

COMMITTEE III

Chairman: Mr. A. Yankov (Bulgaria).
Vice Chairman: Colombia, Cyprus, Federal Republic of Germany.
Rapporteur: Mr. Abdel Magied Hassan (Sudan).

The General Committee consists of 48 Members, as follows: The President, the 31 Vice-Presidents, The Rapporteur General, and the 15 Officers of the three Main Committees.

DRAFTING COMMITTEE

Chairman: Mr. J. A. Beesley (Canada).

Members: Afghanistan, Argentina, Bangladesh, Ecuador, El Salvador, Ghana, India, Italy, Lesotho, Malaysia, Mauritania, Mauritius, Mexico, Netherlands, Philippines, Romania, Sierra Leone, Spain, Syria, Union of Soviet Socialist Republics, United Republic of Tanzania, United States.

CREDENTIAL COMMITTEE

Chairman: Mr. Heinrich Gleissner (Austria).

Members: Chad, China, Costa Rica, Hungary, Ireland, Ivory Coast, Japan, Uruguay.

Copies of Articles sponsored or co-sponsored by the U.S. at Caracas will be airpouched separately to all Embassies.

[Informal Working Paper No. 1/Rev. 2* Aug. 26, 1974]

Formulation of Main Trends

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of support they have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. It does not imply either that all the proposals from which these formulations have been taken have been the subject of discussion. The inclusion of a provision in this paper, whether or not only one formula appears, does not necessarily imply that there are no other opinions concerning these questions or that all or most delegations agree on the necessity for such a provision.

All the proposals submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus, the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of taking any decisions at the present stage, in accordance with the method of work adopted by the Committee at its meeting on 3 July, once this task has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

It will be recalled that in submitting the first revised version of this paper, the officers considered it necessary to stipulate that, for purely methodological reasons, the position of those delegations who make their acceptance of the territorial sea régime conditional upon the creation of an exclusive economic zone is not reflected as a trend in this paper.

ITEM 2—TERRITORIAL SEA

2.1 Nature and characteristics, including the question of the unity or plurality of régimes.
Provision I: Nature and characteristics.
2.2 Historic waters.
Provision II–III: Historic waters.
2.3 Limits.
2.3.1 Question of the delimitation of the territorial sea.
Provision IV: (a) Normal baselines.
Provision V–XII: (b) Straight baselines.
Provision XIII: (c) Rivers.
Provision XIV–XV: (d) Bays, the coasts of which belong to a single State.
Provision XVI: (e) Historic bays or other historic waters.
Provision XVII: (f) Permanent harbour works.
Provision XVIII: (g) Roadsteads.
Provision XIX: (h) Low-tide elevations.
Provision XX: (i) Delimitation between States with opposite or adjacent coasts.

*Reissued for technical reasons.

2.3.2 Breadth of the territorial sea: global or regional criteria; open seas and oceans, semi-enclosed and enclosed seas.
Provision XXI: (a) Breadth of the territorial sea.
Provision XXII: (b) Global or regional criteria, open seas and oceans, semi-enclosed and enclosed seas.
2.4 Innocent passage in the territorial sea.
Provision XXIII-XXXIV: (a) Rules applicable to all ships.
Provision XXXV-XXXVI: (b) Rules applicable to ships with special characteristics.
Provision XXXVII-XXXIX: (c) Rules applicable to merchant ships.
Provision XL-XLI: (d)(i) Rules applicable to Government ships.
Provision XLII-XLIV: (d)(ii) Rules applicable to warships.
Provision XLV: (d)(iii) State responsibility for Government ships.
2.5 Freedom of navigation and overflight resulting from the question of plurality of régimes in the territorial sea.

ITEM 2—TERRITORIAL SEA

2. 1 Nature and characteristics, including the question of the unity or plurality of regimes.

PROVISION I

Formula A

1. The sovereignty of a State extends, beyond its land territory and its internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.
2. The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.
3. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

Formula B

1. The sovereignty of a coastal State extends beyond its coast and internal or archipelagic waters to an adjacent zone described as the territorial sea.
2. . . . (same as in Formula A above).
3. This sovereignty is exercised in accordance with the provisions of these articles and allows a plurality of regimes in the cases and for the purposes indicated hereinafter.

Formula C

1. The sovereignty of a coastal State extends beyond its land territory and internal waters, and in the case of archipelagic States, their archipelagic waters, over an adjacent belt of sea defined as the territorial sea.
2. . . . (same as in Formula A above).
3. . . . (same as in Formula A above).

2. 2 Historic waters.

PROVISION II

The territorial sea may include waters pertaining to a State by reason of an historic right or title and actually held by it as its territorial sea.

PROVISION III

No claim to historic waters shall include land territory or waters under the established sovereignty, soverign rights or jurisdiction of another State.

2.3 Limits

2.3.1 Question of the delimitation of the territorial sea

(a) *Normal baselines:*

PROVISION IV

Formula A

Except where otherwise provided in these articles, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

Formula B

A coastal State may adopt its own method of drawing the baseline according to the topographical features of its coast.

In localities where the coastline is regular or the coast is low and flat, the method of natural baseline, i.e. taking the low-tide lines as the baselines, may be employed for measuring the breadth of the territorial sea.

(b) *Straight baselines:*

PROVISION V

Formula A

In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight

baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

Formula B

1. In localities where the coastline is indented or there are islands along the coast, the method of a series of straight baselines, i.e. taking the lines connecting the basepoints on the coast and the outermost islands as the baselines, may be employed for measuring the breadth of the territorial sea.

2. A coastal State with coasts of great lengths and complicated topography may employ the method of mixed baselines, i.e. drawing the baseline in turn by the methods provided for in article . . . and this article to suit different conditions.

PROVISION VI

The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters.

PROVISION VII

Formula A

Baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them.

Formula B

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or except where States have historically and consistently applied low-tide elevation for the purpose of drawing straight baselines.

PROVISION VIII

Where the method of straight baselines is applicable under the provisions of paragraph . . . , account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by a long usage.

PROVISION IX

In localities where no stable low-water line exists along the coast due to continual process of alluvion and sedimentation and where the seas adjacent to the coast are so shallow as to be non-navigable by other than small boats and pertain to the character of inland waters, baselines shall be drawn linking appropriate points on the sea adjacent to the coast not exceeding 10 fathom line.

PROVISION X

The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas the territorial sea of another State.

PROVISION XI

The coastal State must clearly indicate straight baselines on charts, to which publicity must be given.

PROVISION XII

1. Waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with article . . . has the effect of enclosing as internal waters areas which previously had been considered a part of the territorial sea or of the high seas, a right of innocent passage, as provided in articles . . . to . . . shall exist in those waters.

(c) *Rivers:*

PROVISION XIII

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks.

(d) *Bays the coasts of which belong to a single State:*

PROVISION XIV

1. This article relates only to bays the coasts of which belong to a single State.

2. For the purposes of these articles, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water mark of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water area of the indentation.

Formula A

4. If the distance between the low-water marks of the natural entrance points of a bank does not exceed 24 miles, a closing line may be drawn between these two low-water marks and the waters enclosed thereby shall be considered as internal waters.

Formula B

4. If the distance between the low-water marks of the natural entrance points of a bank does not exceed . . . miles, a closing line may be drawn between these two low-water marks and the waters enclosed thereby shall be considered as internal waters.

PROVISION XV

Formula A

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds 24 miles, a straight baseline of 24 miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

Formula B

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds . . . miles, a straight baseline of . . . miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

(e) *Historic bays or other historic waters:*

PROVISION XVI

Formula A

6. The foregoing provisions shall not apply to so-called "historic" bays, or in any case where the straight baseline system provided for in article . . . is applied.

Formula B

6. In the absence of other applicable rules the baselines of the territorial sea are measured from the outer limits of historic bays or other historic waters.

(f) *Permanent harbours works:*

PROVISION XVII

Formula A

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast.

Formula B

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form part of the harbour system and which are above water at high tide shall be regarded as forming part of the coast.

(g) *Roadsteads:*

PROVISION XVIII

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea. The coastal State

must clearly demarcate such roadsteads and indicate them on charts together with their boundaries, to which due publicity must be given.

(h) *Low-tide elevations:*

PROVISION XIX

1. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low-tide but submerged at high tide. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.

(i) *Delimitation between States with opposite or adjacent coasts:*

PROVISION XX

Formula A

Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The provisions of this paragraph shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision.

The line of delimitation between the territorial seas of two States laying opposite to each other or adjacent to each other shall be marked on large-scale charts officially recognized by the coastal States.

Formula B

Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line, every point of which is equidistant from the nearest points on the baselines . . . from which the breadth of the territorial seas of each of the two States is measured.

Formula C

1. Where the coasts of two or more States are adjacent and/or opposite, the delimitation of the boundary lines of the respective territorial seas shall be determined by agreement among them in accordance with equitable principles.

In the course of negotiations, the State may apply any one or a combination of delimitation methods appropriate for arriving at an equitable agreement, taking into account special circumstances----------.

3. The States shall make use of the methods envisaged in Article 33 of the United Nations Charter or other peaceful means and methods open to them, in order to resolve differences which may arise in the course of negotiations.

Formula D

Coastal States adjacent or opposite to each other shall define the boundaries between their territorial seas on the principles of mutual respect for sovereignty and territorial integrity, equality and reciprocity.

2.3.2 *Breadth of the territorial sea: global or regional criteria; open seas and oceans, semi-enclosed and enclosed seas*

(a) *Breadth of the territorial sea:*

PROVISION XXI

Formula A

Each State shall have the right to establish the breadth of its territorial sea to a limit not exceeding 12 nautical miles, measured from baselines drawn in accordance with articles . . . of this Convention.

Formula B

Each State has the right to establish the breadth of its territorial sea up to a distance not exceeding 200 nautical miles, measured from the applicable baselines.

Formula C

The maximum limit provided in this article shall not apply to historic waters held by any States as its territorial sea.

Any State which, prior to the approval of this Convention, shall have already established a territorial sea with a breadth more than the maximum provided in this article shall not be subject to the limit provided herein.

(b) *Global or regional criteria, open seas and oceans, semi-enclosed and enclosed seas:*

PROVISION XXII

Formula A

Global criterion.

Formula B

1. Each coastal State shall have the right to establish the limits of the adjacent sea subject to its sovereignty and jurisdiction, within the maximum distance referred to in paragraph 2 of this article, having regard to reasonable criteria which take into account the relevant geographical, geological, ecological, economic and social factors and interests relating to the preservation of the marine environment and national sovereignty.

2. In seas where the zone of sovereignty and jurisdiction of a coastal State can extend to a distance of 200 nautical miles, measured from the applicable baselines, without interfering with the zone of sovereignty and jurisdiction of another coastal State, that distance shall be recognized as the maximum outer limit applicable to the respective zones of sovereignty and jurisdiction.

Formula C

1. A coastal State shall have the right to determine the breadth of its territorial sea within a maximum limit of (. . .) nautical miles measured from applicable baselines drawn in accordance with the relevant articles of this Convention.

2. The right referred to in paragraph (1) shall not be exercises in such a manner as to cut off the territorial sea of another State or any part thereof from the high seas.

3. In areas of semi-closed seas, having special geographical characteristics, the breadth of the territorial seas shall be determined jointly by the States of that area.

2.4 Innocent passage in the territorial sea

(a) *Rules applicable to all ships:*

PROVISION XXIII

Formula A

Subject to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea.

Formula B

In territorial seas whose breadth exceeds 12 nautical miles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage in the form prescribed in article (—) within a limit of . . . nautical miles measured from the applicable baselines.

Beyond this internal limit, ships shall enjoy freedom of passage subject to the provisions of provision XLVI.

PROVISION XXIV

Formula A

Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to internal waters, or of making for the high seas from internal waters.

Formula B

1. Innocent passage means navigation through the territorial sea for the purpose either of traversing that sea without entering any port or internal waters, or of proceeding to or from any port or internal waters.

2. For the purposes of these articles the term "port" includes any harbour or roadstead normally used for the loading, unloading or anchoring of ships.

PROVISION XXV

Innocent passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or by distress.

PROVISION XXVI

Formula A

Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.

Formula B

1. . . . (same as Formula A).

2. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State, if in the territorial sea it engages in any threat or use of force in violation of the Charter of the United Nations against the territorial integrity or political independence of the coastal State or of any other State, or if it engages in any of the following activities:

(i) Any other warlike act against the coastal or any other State;

(ii) Any exercise or practice with weapons of any kind;

(iii) The launching or taking on board of any aircraft;

(iv) The launching, landing or taking on board of any military device;

(v) The embarking or disembarking of any person or cargo;

(vi) Any act of espionage affecting the defence or security of the coastal State;

(vii) Any act of propaganda affecting the security of the coastal State;

(viii) Any act of interference with any systems of communication of the coastal or any other State;

(ix) Any act of interference with any other facility or installation of the coastal State;

(x) Any other activity not having a direct bearing on passage.

3. Passage shall not be considered prejudicial to the peace, good order or security of the coastal State if any such activity is carried out with the prior authorization of the coastal State or as rendered necessary by *force majeure* or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress, or as may be prudent for safe navigation.

Formula C

1. . . . (same as Formula A).

2. Passage of a foreign ship shall not be considered prejudicial to the peace, good order or security of the coastal State unless, in the territorial sea, it engages in any threat or use of force in violation of the Charter of the United Nations against the territorial integrity or political independence of the coastal State, or without authorization from the coastal State or justification under international law in any of the following activities:

(a) Any exercise or practice with weapons of any kind;

(b) The launching or taking on board of any aircraft;

(c) The launching, landing or taking on board of any military device;

(d) The embarking or disembarking of any person or cargo contrary to the customs, fiscal, immigration or sanitary laws or regulations of the coastal State;

(e) Any act aimed at interfering with any system of communication of the coastal State;

(f) Any act aimed at interfering with any other facilities or installations of the coastal State.

3. . . . (same as Formula B, paragraph 3).

PROVISION XXVII

Passage shall be continuous and expeditious. Passing ships shall refrain from manoeuvring unnecessarily, hovering or engaging in any activity other than mere passage.

PROVISION XXVIII

Formula A

1. Foreign ships exercising the right of innocent passage shall comply with the laws and regulations enacted by the coastal State in conformity with these articles and other rules of international law and, in particular, with such laws and regulations relating to transport and navigation.

2. Passage of foreign fishing vessels shall not be considered innocent if they do not observe such laws and regulations as the coastal State may make and publish in order to prevent these vessels from fishing in the territorial sea.

Formula B

1. The coastal State may make laws and regulations, in conformity with the provisions of this Convention and other rules of international law, relating to

innocent passage through the territorial sea, which laws and regulations may be in respect of all or any of the following:

(a) The safety of navigation and the regulation of marine traffic, including the designation of sealanes and the establishment of traffic separation schemes;

(b) The protection of navigational aids and facilities and other facilities or installations including those for exploration and exploitation of the marine resources of the territorial sea and the sea-bed and subsoil thereof.

(c) The protection of submarine or aerial cables and pipelines;

(d) The conservation of the living resources of the sea;

(e) The preservation of the environment of the coastal State, including the territorial sea, and the prevention of pollution thereto;

(f) Research of the marine environment and hydrographic surveys;

(g) The prevention of infringement of the customs, fiscal, immigration, quarantine or sanitary or phytosanitary regulations of the coastal State;

(h) The prevention of infringement of the fisheries regulations of the coastal States, including *inter alia* those relating to the stowage of gear.

2. Such laws and regulations shall not—

(a) apply to or affect the design, construction, manning or equipment of foreign ships or matters regulated by generally accepted international rules unless specifically authorized by such rules; or

(b) impose requirements on foreign ships which have the practical effect of denying or prejudicing the right of innocent passage in accordance with this Convention.

3. The coastal State shall give due publicity to all laws and regulations made by it under the provisions of this article.

4. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations of the coastal State.

5. During their passage through the territorial sea, foreign ships, including marine research and hydrographic survey ships, may not carry out any research or survey activities without the prior authorization of the coastal State.

6. A coastal State may, where it considers it necessary having regard to the density of traffic concentration, require foreign ships exercising the right of innocent passage through its territorial sea to use such sealanes and traffic separation schemes as may be designated or prescribed by the coastal State for the regulation of the passage of ships.

7. A coastal State may from time to time, after giving due publicity thereto, substitute other sealanes for any sealanes previously designated by it under the provisions of this article.

8. In the designation of sealanes and the prescription of traffic separation schemes under the provisions of this article a coastal State shall take into account—

(a) the recommendations of competent international organizations;

(b) any channels customarily used for international navigation;

(c) the special characteristics of particular channels; and

(d) the special characteristics of particular ships.

9. The coastal State shall clearly demarcate all sealanes designated by it under the provisions of this article and indicate them on charts to which due publicity shall be given.

10. Foreign ships exercising the right of innocent passage through the territorial sea shall at all times, and particularly when using sealanes and traffic separation schemes, designated or prescribed by the coastal State under the provisions of this article, comply with all generally accepted international regulations relating to the prevention of collisions at sea.

11. If in the application of its laws and regulations, a coastal State acts in a manner contrary to the provisions of these articles and loss or damage results to any foreign ship exercising the right of innocent passage through the territorial sea, the coastal State shall compensate the owners of such ship for that loss or damage.

Formula C

1. The coastal State may enact regulations relating to navigation in its territorial sea. Such regulations may relate, *inter alia*, to the following:

(a) Maritime safety and traffic and, in particular, the establishment of sealanes and traffic separation schemes;

(b) Installation and utilization of facilities and systems of aids to navigation and the protection thereof;

(c) Installation and utilization of facilities to explore and exploit marine resources and the protection thereof;

(d) Maritime transport;

(e) Passage of ships with special characteristics;
(f) Preservation of marine and coastal environment and prevention of all forms of pollution;
(g) Research of the marine environment.
2. . . . (same as in Formula B, para. 4).

PROVISION XXIX

Formula A

Submarines and other underwater vehicles are required to navigate on the surface and to show their flag.

Formula B

Submarines and other underwater vehicles in innocent passage may be required to navigate on the surface and to show their flag.

Formula C

Submarines are required to navigate on the surface and to show their flag.

PROVISION XXX

The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea and, in particular, it shall not, in the application of these articles or of any laws or regulations made under the provisions of these articles, discriminate in form or in fact against the ships of any particular State or against ships carrying cargoes to, from or on behalf of any particular State.

PROVISION XXXI

The coastal State is required to give appropriate publicity to any dangers to navigation, of which it has knowledge, within its territorial sea.

PROVISION XXXII

The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

PROVISION XXXIII

Formula A

In the case of ships proceeding to internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to those waters is subject.

Formula B

In the case of ships proceeding to any port or internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to those waters is subject.

PROVISION XXXIV

The coastal State may, without discrimination amongst foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.

(b) *Rules applicable to ships with special characteristics.*

PROVISION XXXV

Formula A

1. Tankers and ships carrying nuclear or other inherently dangerous or noxious substances or materials may be required to give prior notification of their passage to the coastal State and to confine their passage to such sealanes as may be designated for that purpose by the coastal State.
2. For the purposes of this article, the term "tanker" includes any ship used for the carriage in bulk in a liquid state of petroleum, natural gas or any other highly inflammable, explosive or pollutive substance.
3. In order to expedite the passage of ships through the territorial sea the coastal State shall ensure that the procedures for notification under the provisions of this article shall be such as not to cause any undue delay.

Formula B

1. The coastal State may regulate the passage through its territorial sea of the following:

(a) Nuclear-powered ships or ships carrying nuclear weapons;

(b) Marine research and hydrographic survey ships;

(c) Oil tankers and chemical tankers carrying harmful or noxious liquid substances in bulk;

(d) Ships carrying nuclear substances or materials.

2. The coastal State may require prior notification to or authorization by its competent authorities for the passage through its territorial sea of foreign ships mentioned in subparagraph (a) of paragraph 1.

3. The coastal State may require prior notification to its competent authorities for the passage through its territorial sea, except along designated sealanes, of foreign ships mentioned in subparagraph (b) of paragraph 1.

4. The coastal State may require the passage through its territorial sea along designated sealanes of foreign ships mentioned in subparagraphs (c) and (d) of paragraph 1, in conformity with article . . .

PROVISION XXXVI

Foreign nuclear-powered ships and ships carrying nuclear substances shall, during passage through territorial waters, observe special precautionary measures and carry papers established for such ships by international agreements.

(c) *Rules applicable to merchant ships:*

PROVISION XXXVII

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.

PROVISION XXXVIII

Formula A

1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases:

(a) If the consequences of the crime extend to the coastal State; or

(b) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or

(c) If the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies; or

(d) If it is necessary for the suppression of illicit traffic in narcotic drugs.

2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.

3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, advise the consular authority of the flag State before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.

5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

Formula B

1. (a) to (c) . . . (same as Formula A).

(d) If it is necessary for the suppression of illicit traffic in narcotic anh psychotropic drugs.

2 to 5. . . . (same as Formula A)

PROVISION XXXIX

1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.

3. The provisions of the previous paragraph are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

(d) *Rules applicable to government ships:*

(i) Government ships other than warships:

PROVISION XL

Formula A

The rules contained in sections (a) and (c) shall apply to government ships operated for commercial purposes.

Formula B

Government ships operated for commercial purposes in foreign territorial waters shall enjoy immunity, and therefore the measures referred to in this provision may be applied to them only with the consent of the State whose flag the ship flies.

PROVISION XLI

1. The rules contained in section (a) and in provision XXVII shall apply to government ships operated for non-commercial purposes.

2. With such exceptions as are contained in the provisions referred to in the preceding paragraph, nothing in these articles affects the immunities which such ships enjoy under these articles or other rules of international law.

(ii) Warships

PROVISION XLII

1. For the purpose of this article, the term "warship" means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the Government of the State and whose name appears in the appropriate Service List or its equivalent and manned by a crew who are under regular armed forces discipline.

2. The rules contained in section (a) of these articles shall apply to warships.

PROVISION XLIII

Formula A

If any warship does not comply with the regulations for the coastal State concerning passage through the territorial sea and disregards any request for compliance which is made to it, the coastal State may require the warship to leave the territorial sea.

Formula B

1. Foreign warships exercising the right of innocent passage shall not, in the territorial sea, carry out any manoeuvres other than those having direct bearing on passage.

2. If any warship does not comply with the laws and regulations of the coastal State relating to passage through the territorial sea or fails to comply with the requirements of paragraph . . . of this article, and disregards any request for compliance which is made to it, the coastal State may suspend the right of passage of such warship and may require it to leave the territorial sea by such safe and expeditious route as may be directed by the coastal State.

Formula C

1. The coastal State may require prior notification to or authorization by its competent authorities for the passage of foreign warships through its territorial sea, in conformity with regulations in force in such a State.

2. Foreign warships exercising the right of innocent passage shall not perform any activity which does not have a direct bearing on the passage, such as—
(a) carrying out any exercise or practice with weapons of any kind;
(b) assumption of combat position by the crew;
(c) flying their aircraft;
(d) intimidation or display of force;
(e) carrying out research operations of any kind.
3. . . . (same as Formula A).

PROVISION XLIV

Subject to provisions XLIII and XLV, nothing in these provisions affects the immunities which warships enjoy under these provisions or other rules of international law.

(iii) State responsibility for government ships.

PROVISION XLV

If, as a result of any non-compliance by any warships or other government ship operated for non-commercial purposes with any of the laws or regulations of the coastal State relating to passage through the territorial sea or with any of the provisions of these articles or other rules or international law, any damage is caused to the coastal State (including its environment and any of its facilities, installations or other property, or to any ships flying its flag), international responsibility shall be borne by the flag State of the ship causing the damage.

2.5 *Freedom of navigation and overflight resulting from the question of plurality of regimes in the territorial sea*

PROVISION XLVI

1. In territorial seas whose breadth exceeds 12 nautical miles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage in the form prescribed in article (. . .) within a limit of . . . nautical miles measured from the applicable baselines.
2. Beyond this internal limit, ships shall enjoy freedom of passage subject to the duties of peaceful coexistence and good neighborliness and also the provisions adopted by the coastal State with regard to the exploration, conservation and exploitation of resources, the preservation of the marine environment, scientific research, the emplacement of installations and the security of navigation and maritime transport.
3. In accordance with the duties referred to in paragraph 2 of this article, ships in transit shall abstain from any activities that may be prejudicial to the coastal State, such as an exercise or practice with weapons or explosives, the launching or taking on board of military devices, the embarking or disembarking of persons or cargo contrary to the customs, fiscal, immigration or sanitary provisions of the coastal State, any act of propaganda, espionage or interference with systems of communication, and other activities not having a direct bearing on passage.
4. Where appropriate, the provisions of paragraphs 2 and 3 of this article shall also apply to the passage of aircraft.
5. The provisions of the coastal State for the purposes referred to in paragraph 2 of this article shall not affect the legitimate and normal exercise of the rights enjoyed by other States with regard to navigation, overflight and other means of international communication in accordance with the provisions of this Convention.

[Informal Working Paper No. 2/Rev. 2, Aug. 27, 1974]

Formulation of Main Trends

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of support they have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. It does not imply either that

all the proposals from which these formulations have been taken have been the subject of discussion. The inclusion of a provision in this paper, whether or not only one formula appears, does not necessarily imply that there are no other opinions concerning these questions or that all or most delegations agree on the necessity for such a provision.

All the provisions submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of taking any decisions at the present stage, in accordance with the method of work adopted by the Committee at its meeting on 3 July, once this task has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

On examining this paper consideration should be given to the fact that for some delegations, straits used for international navigation which are a part of the territorial sea of one or more States, fall, except for some specific rules contained in Provision III, under the same legal regime as that of any other portion of the territorial sea. As a result, the position of these delegations is reflected in the provisions corresponding to item 2.4 (innocent passage in the territorial sea) appearing in Informal Working Paper No. 1/Rev. 2*, specially in the Provisions XXIV, XXV, XXVI, XXVII, XXVIII, XXIX and Provision XLIII, Formula C.

For certain delegations the question of passage of military aircrafts in transit over straits should not be included in this document nor in a Convention on the Law of the Sea.

ITEM 4—STRAITS USED FOR INTERNATIONAL NAVIGATION

Provision I: Definitions.
4.1 Innocent passage.
Provision II: General provision.
Provision III: High seas within a strait.
Provision IV: Special duties of coastal States.
Provision V: Rules applicable to ships with special characteristics.
Provision VI: Rules applicable to warships.
4.2 Other related matters including the question of the right of transit.
Provision VII: General.
Provision VIII: Rules for transit.
Provision IX: Sealanes and traffic separation schemes.
Provision X: Non-suspension of transit.
Provision XI: Sovereign rights of coastal States.
Provision XII: Competence of straits States to enact regulations.
Provision XIII–XV: Liability for damage.
Provision XVI: Existing international arrangements for particular straits.
Provision XVII: Co-operation between user States and straits States.

ITEM 4—STRAITS USED FOR INTERNATIONAL NAVIGATION

Definitions:

PROVISION I

Formula A

1. This article applies to any strait or other stretch of water, whatever its geographical name, which—

(a) is used for international navigation;

(b) connects two parts of the high seas.

2. "Straits State" means any State bordering a strait to which these provisions apply.

Formula B

This article applies to any strait or other stretch of water, whatever its geographical name, which—

(a) is used for international navigation;

(b) connects—

(i) two parts of the high seas; and

(ii) the high seas with the territorial sea in one or more foreign States.

Formula C

These articles apply to any strait which is used for international navigation and forms part of the territorial sea of one or more States.

Formula D

An international strait is a natural passage between land formations which—

(a) (i) lies within the territorial sea of one or more States at any point in its length and

(ii) joins . . .

(b) has traditionally been used for international navigation.

4.1 Innocent passage

PROVISION II

Formula A

Subject to the provisions of article . . . [Provision III, special duties of coastal States] the passage of foreign ships through straits shall be governed by the rules contained in Part . . . [see Provisions XXV to XXVII, XXX to XXXIII and XXXVII to XLI of Informal Working Paper No. 2/Rev. 2].

Formula B

1. The provisions [under item 2.4] apply to straits used for international navigation not wider than six miles between the baselines.

2. There shall be no suspension of innocent passage of foreign ships through such straits.

Formula C

In the case of straits leading from the high seas to the territorial sea of one or more foreign States and used for international navigation, the principle of innocent passage for all ships shall apply and this passage shall not be suspended.

Formula D

A strait lying within the territorial sea, whether or not it is frequently used for international navigation, forms an inseparable part of the territorial sea of the coastal State.

Formula E

1. In straits used for international navigation between one part of the high seas and another part of the high seas or between one part of the high seas and the territorial sea of a foreign State, other than those straits in which the régime of transit passage applies in accordance with article . . . the régime of innocent passage in accordance with the provisions of . . . shall apply, subject to the provisions of this article.

2. There shall be no suspension of the innocent passage of foreign ships through such straits.

3. The provision of article . . . (sealanes) shall apply in such straits.

PROVISION III

Nothing in this Chapter shall affect any areas of high seas within a strait.

PROVISION IV

1. Passage of foreign merchant ships through straits shall be presumed to be innocent.

2. There shall be no suspension of innocent passage of foreign ships through such straits.

3. The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea in straits and shall make every effort to ensure speedy and expeditious passage; in particular it shall not discriminate, in form or in fact, against the ships of any particular State or against ships carrying cargoes or passengers to, from and on behalf of any particular State.

4. The coastal State shall not place in navigational channels in a strait facilities, structures or devices of any kind which could hamper or obstruct the passage of ships through such strait. The coastal State is required to give appropriate publicity to any obstacle or danger to navigation, of which it has knowledge, within the strait.

PROVISION V

(See Formula B, Provision XXXV, of Informal Working Paper No. 1/Rev. 2*.)

PROVISION VI

(See Provisions XLIII and XLIV of Informal Working Paper No. 1/Rev. 2*.)

4.2 Other related matters including the question of the right of transit

PROVISION VII

Formula A

1. In straits used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign State, all ships and aircraft in transit, shall enjoy the same freedom of navigation and overflight, for the purpose of transit through and over such straits, as they have on the high seas. Coastal States may designate corridors suitable for transit by all ships and aircraft through and over such straits. In the case of straits where particular channels of navigation are customarily employed by ships in transit, the corridors, so far as ships are concerned, shall include such channels.

2. The provisions of this article shall not affect Conventions or other international agreements already in force specifically relating to particular straits.

Formula B

1. In straits to which this article applies, all ships and aircraft enjoy the right of transit passage, which shall not be impeded.

2. Transit passage is the exercise in accordance with the provisions of this [Chapter] of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the high seas and another part of the high seas or a State bordering the strait.

3. . . . (see Provision 1, Formula A above.)

4. Transit passage shall apply in a strait only to the extent that—

(a) an equally suitable high seas route does not exist through the straits; or

(b) if the strait is formed by an island of the coastal State, an equally suitable high seas passage does not exist seaward of the island.

Formula C

1. In straits used for internatonal navigation between one part of the high seas and another part of the high seas, all ships in transit shall enjoy the equal freedom of navigation for the purpose of transit passage through such straits.

2. In the case of straits over which the air space is traditionally used for transit flights by foreign aircraft between one part of the high seas and another part of the high seas, all aircraft shall enjoy equal freedom of transit overflight over such straits.

Formula D

1. . . . (same as Formula B, para. 1)

2. . . . (same as Formula B, para. 2)

3. This article applies to any strait or other stretch of water which is more than six miles wide between the baselines, whatever its geographical name, which—

(a) is used for international navigation;

(b) connects two parts of the high seas.

4. . . . (same as Formula B, para. 4)

PROVISION VIII

Formula A

1. Ships and aircraft, while exercising the right of transit passage shall—

(a) proceed without delay through the strait and shall not engage in any activities other than those incident to their normal modes of transit;

(b) refrain from any threat or use of force in violation of the Charter of the United Nations against the territorial integrity or political independence of an adjacent straits State.

2. Ships in transit shall—

(a) comply with generally accepted international regulations, procedures and practices for safety at sea, including the International Regulations for Preventing Collisons at Sea;

(b) comply with generally accepted international regulations, procedures and practices for the prevention and control of pollution from ships.

3. Aircraft in transit shall—

(a) observe Rules of the Air established by the International Civil Aviation Organization under the Chicago Convention as they apply to civil aircraft; State aircraft will normally comply with such safety measures and will at all times operate with due regard for the safety of navigation;

(b) at all times monitor the radio frequency assigned by the appropriate internationally designated air traffic control authority or the appropriate international distress radio frequency.

Formula B

1. The freedom of navigation provided for in this article for the purpose of transit passage through straits shall be exercised in accordance with the following rules—

(a) Ships in transit through the straits shall not cause any threat to the security of the coastal States of the straits, or to their territorial inviolability or political independence. Warships in transit through such straits shall not in the area of the straits engage in any exercises or gunfire, use weapons of any kind, launch or land their aircraft, undertake hydrographical work or engage in other similar acts unrelated to the transit. In the event of any accidents, unforeseen stops in the straits or any acts rendered necessary by *force majeure*, all ships shall inform the coastal States of the straits;

(b) Ships in transit through the straits shall strictly comply with the international rules concerning the prevention of collisions between ships or other accidents;

(c) Ships in transit through the straits shall take all precautionary measures to avoid causing pollution of the waters and coasts of the straits, or any other kind of damage to the coastal States of the straits. Super-tankers in transit through the straits shall take special precautionary measures to ensure the safety of navigation and to avoid causing pollution.

2. The freedom of transit overflight by aircraft over the straits, as provided for in this [Chapter] shall be exercised in accordance with the following rules—

(a) Overflying aircraft shall take the necessary steps to keep within the boundaries of the corridors and at the altitude designated by the coastal State for flights over the straits, and to avoid overflying the land territory of a coastal State unless such overflight is provided for by the delimitation of the corridor designated by the coastal State;

(b) Overflying aircraft shall not cause any threat to the security of the coastal States, their territorial inviolability or political independence; in particular military aircraft shall not in the area of the straits engage in any exercises or gunfire, use weapons of any kind, take aerial photographs, circle or dive down towards ships, take on fuel or engage in other similar acts unrelated to overflight.

PROVISION IX

Formula A

1. In conformity with this [Chapter], a straits State may designate sealanes and prescribe traffic separation schemes for navigation in the straits where necessary to promote the safe passage of ships.

2. A straits State may, when circumstances require and after giving due publicity to its decision, substitute other sealanes or traffic separation schemes for any previously designated or prescribed by it.

3. Before designating sealances or prescribing traffic separation schemes, a straits State shall refer proposals to the competent international organization and shall designate such sealanes or prescribe such separation schemes only as approved by that organization.

4. The straits State shall clearly indicate all sealanes and separation schemes designated or prescribed by it on charts to which due publicity shall be given.

5. Ships in transit shall respect applicable sealanes and separation schemes established in accordance with this article.

Formula B

1. In the case of narrow straits or straits where such provision is necessary to ensure the safety of navigation, coastal States may designate corridors suitable for transit by all ships through such straits. In the case of straits where particular channels of navigations are customarily employed by ships in transit, the cor-

ridors shall include such channels. In the case of any change of such corridors, the coastal State shall give notificatoin of this to all other States in advance.

2. In all straits where there is heavy traffic, the coastal State may, on the basis of recommendations by the Inter-Governmental Maritime Consultative Organization, designate a two-way traffic separation governing passage, with a clearly indicated dividing line. All ships shall observe the established order of traffic and the dividing line. They shall also avoid making unnecessary manoeuvres.

3. Coastal States may designate special air corridors suitable for overflight by aircraft, and special altitudes for aircraft flying in different directions, and may establish particulars for radio communication with them.

PROVISION X

Formula A

A straits State shall not hamper transit passage and shall give appropriate publicity to any danger to navigation or overflight within or over the strait of which it has knowledge. There shall be no suspension of transit passage.

Formula B

1. No State shall be entitled to interrupt or suspend the transit of ships through the straits or engage therein in any acts which interfere with the transit of ships, or require ships in transit to stop or communicate information of any kind.

2. The coastal State shall not place in the straits any installations which could interfere with or hinder the transit of ships.

3. No State shall be entitled to interrupt or suspend the transit overflight of aircraft, in accordance with this article, in the air space over the straits.

PROVISION XI

The provisions of this [Chapter] shall not affect the sovereign rights of the coastal States with respect to the surface, the sea-bed and the living and mineral resources of the straits.

PROVISION XII

1. Subject to the provisions of this article, a straits State may make laws and regulations—

(a) in conformity with the provisions of article . . . above;

(b) giving effect to applicable international regulations regarding the discharge of oil, oily wastes and other noxious substances in the straits.

2. Such laws and regulations shall not discriminate in form or fact among foreign ships.

3. The straits State shall give due publicity to all such laws and regulations.

4. Foreign ships exercising the right of transit passage shall comply with such laws and regulations of the straits State.

5. If a ship entitled to sovereign immunity does not comply with any such laws or regulations and damage to the straits State results, the flag State shall in accordance with article . . . be responsible for any such damage caused to the straits State.

PROVISION XIII

Formula A

Responsibility for any damage caused to a straits State resulting from acts in contravention of this [Chapter] by any ship or aircraft entitled to sovereign immunity shall be borne by the flag State.

Formula B

Liability for any damage which may be caused to the coastal States of the straits, their citizens or juridical persons by the ship in transit, shall rest with the owner of the ship or other person liable for the damage, and in the event that such compensation is not paid by them for such damage, with the flag State of the ship.

PROVISION XIV

If a straits State acts in a manner contrary to the provisions of this [Chapter] and loss or damage to a foreign ship or aircraft results, the straits State shall compensate the owners of the vessel or aircraft for that loss or damage.

PROVISION XV

Liability for any damage which may be caused to the coastal States of the straits or their citizens or juridical persons by the aircraft overflying the straits shall rest with the owner of the aircraft or other person liable for the damage and in the event that compensation is not paid by them for such damage, with the State in which the aircraft is registered.

PROVISION XVI

Formula A

The provisions of this [Chapter] shall not affect the legal regimes of straits through and over which transit and overflight are regulated by international agreements, specifically relating to such straits.

Formula B

The provisions of this Chapter shall not affect obligations under the Charter of the United Nations or under conventions or other international agreements already in force relating to a particular strait.

PROVISION XVII

User States and straits States should by agreement co-operate in the establishment and maintenance in a strait of necessary navigation and safety aids or other improvements in aid of international navigation or for the prevention and control of pollution from ships.

[Informal Working Paper No. 3/Rev. 2, Aug. 3, 1974]

Formulation of Main Trends

INTRODUCTION

The sole purpose of this informal working paper is the reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of support they have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. The inclusion of a provision in this paper, whether or not only one formula appears, does not necessarily imply that there are no other opinions concerning these questions or that all or most delegations agree on the necessity for such a provision.

All the proposals submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus, the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of taking any decisions at the present stage, in accordance with the method of work adopted by the Committee at its meeting on 3 July, once this task has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

In submitting this paper the Bureau considers it necessary to stipulate that for purely methodological reasons the position of delegations for whom the acceptance of an economic zone would entail the elimination of the legal concept of the continental shelf is not reflected as a trend in this paper. For those delegations the concept of the continental shelf will be subsumed under the concept of the economic zone and any portion of the continental shelf which extends beyond the economic zone shall fall under the international area.

With respect to item 5.6 (scientific research), it should be noted that there are other proposals under consideration in the Third Committee.

ITEM 5.—CONTINENTAL SHELF

Provision I: Definition.
5.1 Nature and scope of the sovereign rights of coastal States over the continental shelf. Duties of States.
Provisions II–IV: Nature and scope of the sovereign rights of coastal States over the continental shelf.
Provision V: Submarine cables or pipelines.
Provision VI: Navigation, fishing, conservation and research, overflight.
Provisions VII–X: Installations.
Provision XI: Protection of living resources of the sea.
Provision XII: Tunnelling.
Provision XIII: Revenue sharing.
5.2 Outer limit of the continental shelf: applicable criteria.
Provision XIV.
5.3 Question of the delimitation between States: various aspects involved.
Provisions XV–XVII.
5.4 Natural resources of the continental shelf.
Provision XVIII.
5.5 Régime for waters superjacent to the continental shelf.
Provision XIX.
5.6 Scientific research.
Provision XX.

ITEM 5—CONTINENTAL SHELF

PROVISION I

Formula A

The term continental shelf means—

(a) The sea-bed and subsoil of submarine areas adjacent to the coast but outside the area of the territorial sea, to the outer limits of the continental rise bordering on the ocean basin or abyssal floor;

(b) . . .

Formula B

The continental shelf of a coastal State extends beyond its territorial sea to a distance of 200 miles from the applicable baselines and throughout the natural prolongation of its land territory where such natural prolongation extends beyond 200 miles.

Formula C

[Same as Formula B] to the outer limit of its continental margin, as precisely defined and delimited in accordance with article . . .

Formula D

The continental shelf comprises the sea-bed and subsoil of the submarine areas adjacent to the territory of the State but outside the area of the territorial sea, up to the outer lower edge of the continental margin which adjoins the abyssal plains area and, when that edge is at a distance of less than 200 miles from the coast, up to this last distance.

5.1 Nature and scope of the sovereign rights of coastal States over the continental shelf. Duties of States

PROVISION II

Formula A

The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

Formula B

The sovereignty of a coastal State extends to its continental shelf.

PROVISION III

The rights referred to in Provision . . . are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.

PROVISION IV

The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

PROVISION V

Formula A

Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may

not impede the laying or maintenance of submarine cables or pipelines on the continental shelf.

Formula B

The delineation of the course for laying submarine cables and pipelines on the continental shelf by a foreign State is subject to the consent of the coastal State.

Formula C

Subject to its right to take reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources and the prevention of pollution, the coastal State may not impede the laying or maintenance of submarine cables or pipelines on its continental shelf.

Nothing in this article shall affect the jurisdiction of the coastal State over cables and pipelines constructed or used in connexion with the exploration or exploitation of its continental shelf or the operations of an installation under its jurisdiction, or its right to establish conditions for cables or pipelines entering its territory or territorial sea.

When laying submarine cables and pipelines due regard shall be paid to cables and pipelines already in position on the sea-bed. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

PROVISION VI

Formula A

The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, nor result in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication.

Neither the installations or devices, nor the safety zones around them, may be established where interference may be caused to the use of recognized sealanes essential to international navigation.

Formula B

The exercise of the coastal State's rights over the continental shelf shall not result in any unjustifiable interference with the freedom of navigation in the superjacent waters and of overflight in the superjacent air space, nor shall it impede the use of recognized lanes essential to international navigation.

Formula C

The coastal State shall exercise its rights and perform its duties without unjustifiable interference with navigation or other uses of the sea, and ensure compliance with applicable international standards established by the appropriate international organizations for this purpose.

PROVISION VII

Formula A

The coastal State is entitled to construct, maintain or operate on or over the continental shelf installations and other devices necessary for the exercise of its rights over the same, to establish safety zones around such devices and installations, and to take in those zones measures necessary for their protection. Ships of all nationalities shall respect these safety zones, which may extend up to . . . around the installations or devices.

Formula B

The coastal State shall have the exclusive right to authorize and regulate on the continental shelf the construction, operation and use of artificial islands and installations for the purpose of exploration or exploitation of natural resources or for other economic purposes, and of many installations which may interfere with the exercise of the rights of the coastal State.

The coastal State may, where necessary establish reasonable safety zones around such off-shore installations in which it may take appropriate measures to ensure the safety both of the installations and of navigation. Such safety zones shall be designed to ensure that they are reasonably related to the nature and function of the installation. Ships of all nationalities must respect these safety zones.

The breadth of the safety zones shall be determined by the coastal State and shall conform to applicable international standards in existence or to be established by the Inter-Governmental Maritime Consultative Organization regarding the establishment and breadth of safety zones. In the absence of such additional

standards, safety zones around installations for the exploration and exploitation of non-renewable resources of the seabed and subsoil may extend to a distance of 500 metres around the installations, measured from each point of their outer edge.

States shall ensure compliance by vessels fo their flag with applicable international standards regarding navigation outside the safety zones but in the vicinity of such off-shore installations.

Installations and safety zones around them amy not be established where interference may be caused to the use of recognized sealanes essential to international navigation.

PROVISION VIII

Due notice must be given of the construction of any such installations, and permanent means for giving warning for their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.

PROVISION IX

Formula A

Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

Formula B

For the purpose of this section, the term "installations" refers to artificial off-shore islands, facilities, or similar devices, other than those which are mobile in their normal mode of operation at sea. Installations shall not afford a basis for a claim to a territorial sea or economic zone, and their presence does not affect the delimitation of the territorial sea or economic zone of the coastal State.

PROVISION X

Formula A

The establishment of any other type of installation by third States or their nationals is subject to the permission of the coastal State.

Formula B

No State shall be entitled to construct, maintain, deploy or operate on the continental shelf of another State any military installations or devices or any other installations for whatever purposes without the consent of the coastal State.

PROVISION XI

Formula A

The coastal State is obliged to undertake, in the safety zones, all appropriate measures for the protection of the living resources of the sea from harmful agents.

Formula B

In exercising its rights with respect to installations and sea-bed activities, the coastal State shall take all appropriate measures in the economic zone for the protection of the marine environment from pollution in connexion with such installations and activities, and ensure compliance with international minimum standards for this purpose established in accordance with the provisions of Chapter—(Pollution).

The coastal State shall have the exclusive right to authorize and regulate drilling on the continental shelf for all purposes.

PROVISION XII

The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil.

PROVISION XIII

Formula A

1. A coastal State shall make contributions to the international authority out of the revenues derived from exploitation of the non-living resources of its . . . zone in accordance with the following paragraph.

2. The rate of contribution shall be . . . percent of the revenues from exploitation carried out within 40 miles or 200 metres isobath of the . . . zone, whichever limit the coastal State may choose to adopt, and . . . percent of the revenues from exploitation carried out beyond 40 miles or 200 metres isobath within the . . . zone.

3. The international authority shall distribute these contributions on the basis of equitable sharing criteria.

Formula B

The coastal State in the exercise of its rights with respect to the non-renewable natural resources of the continental shelf—

(a) . . .

(b) Shall pay, in respect of the exploitation of such non-renewable resources seaward of the territorial sea or the 200-metre isobath, whichever is further seaward (*insert formula*), to be used, as specified in article . . ., for international community purposes, particularly for the benefit of developing countries.

5.2 Outer limit of the continental shelf applicable criteria

PROVISION XIV

Formula A

(Same as Formula A in Provision I.)

Formula B

(Same as Formula B in Provision I.)

Formula C

(Same as Formula C in Provision I.)

Formula D

(Same as Formula D in Provision I.)

Formula E

. . . the outer limit [of the continental shelf] may be established by the coastal State within the . . . metre isobath; in areas where the . . . metre isobath is situated at a distance less than . . . nautical miles measured from the baselines from which the territorial sea is measured, the outer limit of the continental shelf may be established by the coastal State by a line every point of which is at a distance from the nearest point of the said baselines not exceeding . . . nautical miles.

Formula F

By virtue of the principle that the continental shelf is the natural prolongation of the continental territory, a coastal State may reasonably define, according to its specific geographical conditions, the limits of the continental shelf under its exclusive jurisdiction beyond its territorial sea or economic zone. The maximum limits of such continental shelf may be determined among States through consultations.

Formula G

1. The outer limit of the continental shelf may be established by the coastal State within the 500-metre isobath.

2. In areas where the 500-metre isobath referred to in paragraph 1 hereof is situated at a distance less than 200 nautical miles measured from the baselines from which the territorial sea is measured, the outer limit of the continental shelf may be established by the coastal State by a line every point of which is at a distance from the nearest point of the said baselines not exceeding 200 nautical miles.

3. In areas where there is no continental shelf, the coastal State may have the same rights in respect of the sea-bed as in respect of the continental shelf, within the limits provided for in paragraph 2 hereof.

Formula H

The outer limit of the continental shelf shall not exceed a maximum distance of 200 nautical miles from the baseline for measuring the breadth of the territorial sea as set out in. . . .

5.3 Questions of the delimitation between States; various aspects involved

PROVISION XV

Formula A

1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant

from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

3. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance wlth the principles set out in paragraphs 1 and 2 of this provision should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

Formula B

1. Where the coasts of two or more States are adjacent and/or opposite, the continental shelf areas appertaining to each State, shall be determined by agreement among them, in accordance with equitable principles.

2. In the course of negotiations, the States shall take into account all the relevant factors, · · ·

3. The States shall make use of any of the methods envisaged in Article 33 of the Charter of the United Nations, as well as those established under international agreements to which they are parties, or other peaceful means open to them, in case any of the parties refuses to enter into or continue negotiations or in order to resolve differences which may arise during such negotiations.

4. The States may decide to apply any one or a combination of methods and principles appropriate for arriving at an equitable delimitation based on agreement.

Formula C

1. Where the coasts of two or more States are adjacent or opposite to each other, the delimitation of the boundary of the continental shelf appertaining to such States shall be determined by agreement between them, taking into account the principle of equidistance.

2. Failing such agreement, no State is entitled to extend its sovereignty over the continental shelf beyond the median line every point of which is equidistant from the nearest points of the baselines, . . . from which the breadth of the continental shelf of each of the two States is measured.

Formula D

1. The delimitation of the continental shelf or the exclusive economic zone between adjacent and/or opposite States must be done by agreement between them, in accordance with an equitable dividing line, the median or equidistance line not being necessarily the only method of delimitation.

2. For this purpose, special account should be taken of geological and geomorphological criteria, as well as of all the special circumstances, including the existence of islands or islets in the area to be delimited.

PROVISION XVI

Where there is an agreement between the States concerned, questions relating to the delimitation of their (economic zones—patrimonial seas) and their sea-bed areas shall be determined in accordance with the provisions of that agreement.

PROVISION XVII

No State shall by reason of this Convention claim or exercise rights over the natural resources of any area of the sea-bed and subsoil over which another State had under international law immediately before the coming into force of this Convention sovereign rights for the purpose of exploring it or exploiting its natural resources.

5.4 Natural resources of the continental shelf

PROVISION XVIII

The natural resources referred to in these provisions consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable

stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.

5.5 Regime for waters superjacent to the continental shelf

PROVISION XIX

Formula A

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the air space above those waters.

Formula B

The rights of the coastal State over the continental shelf do not affect the legal régime of the superjacent waters or air space.

The normal navigation and overflight on and in the air space above the superjacent waters of the continental shelf by ships and aircraft of all States shall not be prejudiced.

5.6 Scientific research

PROVISION XX

Formula A

The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless, the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published.

Formula B

The coastal State may authorize scientific research activities on the continental shelf; it is entitled to participate in them and to receive the results thereof. In such regulations as the coastal State may issue on the matter, the desirability of promoting and facilitating such activities shall be taken especially into account.

[Informal Working Paper No. 4/Rev., Aug. 27, 1974]

Formulation of Main Trends

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of support they have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. It does not imply either that all the proposals from which these formulations have been taken have been the subject of discussion. The inclusion of a provision in this paper, whether or not only one formula appears, does not necessarily imply that there are no other opinions concerning these questions or that all or most delegations agree on the necessity for such a provision.

All the proposals submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus, the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of taking any decisions at the present stage, in accordance with the method of work adopted by the Committee at its meeting on 3 July, once this task, has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in Volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

In submitting this paper the Bureau considers it necessary to stipulate that for purely methodological reasons, the position of those delegations for whom the concept of an exclusive economic zone would be subsumed in a territorial sea that could be extended up to 200 miles, is not reflected as a trend in this paper.

With respect to items 6.8 (Prevention and control of pollution and other hazards to the marine environment) and 6.9 (Scientific research) it should be noted that there are other proposals under consideration in the Third Committee.

ITEM 6—EXCLUSIVE ECONOMIC ZONE BEYOND THE TERRITORIAL SEA

Provisions I–II: General.
6.1 Nature and characteristics, including rights and jurisdiction of coastal States in relation to resources, pollution control and scientific research in the zone. Duties of States.
Provision III: Nature and characteristics of the zone.
Provisions IV–V: Duties of States.
Provision VI: International standards regarding the safety of navigation.
Provision VII: Land-locked and geographically disadvantaged States.
Provision VIII: Revenue sharing.
6.2 Resources of the zone.
Provision IX.
6.3 Freedom of navigation and overflight.
Provision X.
6.4 Regional arrangements.
Provision XI.
6.5 Limits: applicable criteria.
Provision XII.
6.6 Fisheries.
6.6.1 Exclusive fishery zone.
Provision XIII: General.
Provision XIV: Duties of States.
Provision XV: Co-operation with international organizations.
Provision XVI: Access of foreign vessels.
Provision XVII: Rights based on traditional fishing or economic dependence.
Provision XVIII: Allocation of resources to coastal States.
Provision XIX: Access of foreign vessels.
Provision XX: Transition period.
6.6.3 Management and conservation.
Provision XXI: General responsibility of coastal States.
Provision XXIII: Basic principles relating to conservation measures.
Provision XXII: Anadromous species.
Provision XXIV: Catadromous species.
Provision XXV: Highly migratory species.
Provision XXVI: Marine mammals.
Provision XXVII: Enforcement.
6.7 Sea-bed within national jurisdiction.
Provision XXVIII: Duties of coastal States.
6.7.1 Nature and characteristics.
6.7.2 Delineation between adjacent and opposite States.
Provisions XXIX–XXX:
6.7.3 Sovereign rights over natural resources.
Provision XXXI:
6.7.4 Limits.
Provision XXXII:
6.8 Prevention and control of pollution and other hazards to the marine environment.
Provisions XXXIII–XXXV:
6.9 Scientific research.
Provision XXXVI.

Item 6.—Exclusive Economic Zone Beyond the Territorial Sea

PROVISION I

Coastal States have the right to establish beyond their territorial sea an exclusive economic zone . . .

. . . for the benefit of their peoples and their respective economies . . .

PROVISION II

Formula A

In respect of a territory whose people have not achieved full independence or some other self-governing status recognized by the United Nations, the rights to the resources of its Exclusive Economic Zone belong to the people of that territory. These rights shall be exercised by such people for their benefits and in accordance with their needs and requirements. Such rights may not be assumed, exercised or benefited from or in any way be infringed upon by a foreign Power administering or occupying or purporting to administer or to occupy such territory.

Formula B

In respect of a territory whose people have attained neither full independence nor some other self-governing status following an act of self-determination under

the auspices of the United Nations, the rights to the resources of the economic zone created in respect of that territory and to the resources of its continental shelf are vested in the inhabitants of that territory to be exercised by them for their benefit and in accordance with their needs and requirements. Such rights may not be assumed, exercised or profited from or in any way infringed by a metropolitan of foreign Power administering or occupying that territory.

6.1 Nature and characteristics, including rights and jurisdiction of coastal States in relation to resources, pollution control and scientific research in zone. Duties of States

PROVISION III

Formula A

The coastal State has sovereign rights over the renewable and non-renewable natural resources which are found in the waters, in the sea-bed and in the subsoil of an area adjacent to the territorial sea called the patrimonial sea.

The coastal State has the right to adopt the necessary measures to ensure its sovereignty over the resources and prevent marine pollution of its patrimonial sea.

The coastal State has the duty to promote and the right to regulate the conduct of scientific research within the patrimonial sea.

. . . The coastal State shall authorize and regulate the emplacement and use of artificial islands and any kind of facilities on the surface of the sea, in the water column and on the sea-bed and subsoil of the patrimonial sea.

Formula B

1. (1) In the Exclusive Economic Zone a coastal State shall have sovereignty over the living and non-living resources. It shall have sovereign rights for the purpose of regulation, control, exploration, exploitation, protection and preservation of all living and non-living resources therein.

(2) The resources referred to in (1) of this paragraph, shall encompass the living and non-living resources of the water column, the sea-bed and the subsoil.

(3) Subject to article . . . no other State has the right to explore and exploit the resources therein without the consent or agreement of the coastal State.

2. A coastal State shall also have exclusive jurisdiction within the Exclusive Economic Zone, *inter alia* for the purposes of—

(a) control, regulation and preservation of the marine environment including pollution control and abatement;

(b) control, authorization and regulation of scientific research;

(c) control and regulation of customs and fiscal matters related to economic activities in the zone.

3. A coastal State shall have the exclusive right to make and enforce regulations relating to, *inter alia*, the following:

(a) The authorization and regulation of drilling for all purposes;

(b) The construction, emplacement, operation and use of artificial islands and other installations;

(c) Establishment and regulation of safety zones around such off-shore islands and installations;

(d) The licensing of fishing vessels and gear;

(e) Closed fishing seasons;

(f) Types, sizes and amount of gear; and numbers, sizes and types of fishing vessels;

(g) Quota and sizes of fish that may be caught;

(h) The conduct of research, disposition of samples and reporting of associated scientific data.

Formula C

The coastal State has the following rights and competences in its exclusive economic zone:

(a) Exclusive right to explore and exploit the renewable living resources of the sea and the sea-bed;

(b) Soveriegn rights for the purpose of exploring and exploiting the non-renewable resources of the continental shelf, the sea-bed and the subsoil thereof;

(c) Exclusive right for the management, protection and conservation of the living resources of the sea and sea-bed, taking into account the recommendations of the appropriate international or regional fisheries organizations;

(d) . . .

(e) . . .

(f) Exclusive jurisdiction for the purpose of protection, prevention and regulation of other matters ancillary to the rights and competences aforesaid and, in particular, the prevention and punishment of infringements of its customs, fiscal, immigration or sanitary regulations within its territorial sea and economic zone.

A coastal State shall have the exclusive right to authorize and regulate in the exclusive economic zone, the continental shelf, ocean bed and subsoil thereof, the construction, emplacement, operation and use of off-shore artificial islands and other installations for purposes of the exploration and exploitation of the non-renewable resources thereof:

A coastal State may establish a reasonable area of safety zones around its off-shore artificial islands and other installations in which it may take appropriate measures to ensure the safety both of its installations and of navigation. Such safety zones shall be designed to ensure that they are reasonably related to the nature and functions of the installations.

Formula D

1. The coastal State exercises in and throughout an area beyond and adjacent to its territorial sea, known as the exclusive economic zone: (a) sovereign rights for the purpose of exploring and exploiting the natural resources, whether renewable or non-renewable, of the sea-bed and subsoil and the superjacent waters; (b) the other rights and duties specified in these articles with regard to the protection and preservation of the marine environment and the conduct of scientific research. The exercise of these rights shall be without prejudice to article [continental shelf] of this Convention.

2. The emplacement and use of artificial islands and other installations on the surface of the sea, in the waters and on the sea-bed and subsoil of the economic zone, shall be subject to the authorization and regulations of the coastal State.

Formula E

(a)

1. The coastal State exercises in and throughout an area beyond and adjacent to its territorial sea, known as the economic zone, the jurisdiction and the sovereign and exclusive rights set forth in this chapter for the purpose of exploring and exploiting the natural resources, whether renewable or non-renewable, of the sea-bed and subsoil and the superjacent waters.

2. The coastal State exercises in the economic zone the other rights and duties specified in this Convention, including those with regard to the protection and preservation of the marine environment and the conduct of scientific research.

3. The exercise of these rights shall be in conformity with and subject to the provisions of this Convention, and shall be without prejudice to the provisions of part III of this chapter.

(b)

1. The coastal State shall have the exclusive right to authorize and regulate in the economic zone, the construction, operation and use of artificial islands and installations for the purpose of exploration or exploitation of natural resources, or for other economic purposes, and of any installation which may interfere with the exercise of the rights of the coastal State in the economic zone.

2. The coastal State may, where necessary, establish reasonable safety zones around such off-shore installations in which it may take appropriate measures to ensure the safety both of the installations and of navigation.

3. The provisions of article . . . shall apply, *mutatis mutandis*, to such artificial islands and installations.

(c)

The coastal State shall have the exclusive right to authorize and regulate drilling for all purposes in the economic zone.

(d)

With respect to activities subject to its sovereign or exclusive rights, the coastal State may take such measures in the economic zone as may be necessary to ensure compliance with its laws and regulations in conformity with the provisions of this Convention.

PROVISION IV

No State shall be entitled to construct, maintain, deploy or operate, in the Exclusive Economic Zone of another State, any military installation or device or any

other installation or device for whatever purposes without the consent of the coastal State.

PROVISION V

Formula A

The coastal State shall exercise its rights and obligations in the economic zone in accordance with the provisions of the present Convention, with due regard to other legitimate uses of the high seas and bearing in mind the need for a rational exploitation of the natural resources of the sea and the preservation of the sea environment.

Formula B

1. The coastal State shall exercise its rights and perform its duties in the economic zone without unjustifiable interference with navigation or other uses of the sea, and ensure compliance with applicable international standards established by the appropriate international organizations for this purpose.

2. In exercising their rights, States shall not unjustifiably interfere with the exercise of the rights or the performance of the duties of the coastal State in the economic zone.

PROVISION VI

A coastal State, in its exclusive economic zone, shall enforce applicable international standards regarding the safety of navigation.

PROVISION VII

Formula A

(1) Developing land-locked and other geographically disadvantaged States have the right to exploit the living resources of the Exclusive Economic Zones of neighbouring States and shall bear the corresponding obligations.

(2) Nationals of land-locked and other geographically disadvantaged States shall enjoy the same rights and bear the same obligations as nationals of coastal States in the exploitation of the living resources of the Exclusive Economic Zone.

(3) Bilateral, subregional or regional arrangements shall be worked out for the purposes of ensuring the enjoyment of the rights and the carrying out of the obligations referred to in paragraphs 1 and 2 of this article in full respect of the sovereignty of the States concerned.

Formula B

1. The regime applicable to any economic zone or patrimonial sea provided for in article . . . of this Convention shall be subject to the rights of developing geographically disadvantaged States as contained in articles . . . of this Convention.

2. In any region where there are geographically disadvantaged States, the nationals of such States shall have the right to exploit the renewable resources within the economic zones or patrimonial seas of the region for the purpose of fostering the development of their fishing industry and satisfying the nutritional needs of such populations.

3. The States of the region shall cooperate to the fullest extent in order to secure the enjoyment of this right.

Formula C

Land-locked and geographically disadvantaged States shall have the right to explore and exploit the living resources of the exclusive economic zones of neighbouring coastal States, subject to appropriate bilateral or regional arrangements or agreements with such coastal States.

Formula D

1. Land-locked and other geographically disadvantaged States shall have the right to participate in the exploration and exploitation of the living resources of the . . . zone of neighbouring coastal States on an equal and non-discriminatory basis. For the purpose of facilitating the orderly development and the rational exploitation of the living resources of the particular zones, the States concerned may decide upon appropriate arrangements to regulate the exploitation of the resources in those zones.

2. Land-locked and other geographically disadvantaged States shall have the right to participate in the exploration and exploitation of the non-living resources of the . . . zone of neighbouring coastal States on an equal and non-discriminatory basis. Equitable arrangements for the exercise of this right shall be made by the States concerned.

3. The expression "neighbouring coastal States" not only refers to States adjacent to each other, but also includes States of a region situated within reasonable proximity to a land-locked or other geographically disadvantaged State.

PROVISION VIII

Formula A

1. All States deriving revenues from the exploitation of the non-living resources of the . . . zone shall make contributions to the international authority at the rate of . . . percent of the net revenues.

2. The international authority shall distribute these contributions on the same basis as the revenues derived from the exploitation of the international sea-bed area.

Formula B

The sovereign rights of the coastal State over its continental shelf are exclusive. The revenues derived from the exploitation of the continental shelf shall not be subject to any revenue sharing.

6.2 Resources of the zone

PROVISION IX

The natural resources of the (economic zone/patrimonial sea) comprise the renewable and non-renewable natural resources of the waters, the sea-bed and the subsoil thereof.

6.3 Freedom of navigation and overflight

PROVISION X

Formula A

In the economic zone, ships and aircraft of all States, whether coastal or not, shall enjoy the right of freedom of navigation and overflight and the right to lay submarine cables and pipelines with no restrictions other than those resulting from the exercise by the coastal State of its rights within the area.

Formula B

A coastal State, in its exclusive economic zone, is under an international duty not to interfere without reasonable justification with—

(a) the freedom of navigation and overflight, and

(b) the freedom of laying of submarine cables and pipelines.

A coastal State shall not erect or establish artificial islands and other installations, including safety zones around them, in such a manner as to interfere with the use of all States of recognized sealanes and traffic separation schemes essential to international navigation.

Formula C

The rights of the coastal State in the economic zone shall be exercised without prejudice to the rights of all other States, whether having access to the sea or land-locked, as recognized in the provisions of the present Convention and in international law, including the right to freedom of navigation, freedom of overflight, and freedom to lay submarine cables and pipelines.

Formula D

(1) In the Exclusive Economic Zone all States shall enjoy the freedom of navigation, overflight and laying of submarine cables and pipelines.

(2) In the exercise of freedoms referred to in paragraph 1 of this article, States shall ensure that their activities in the Exclusive Economic Zone are carried out in such a manner as not to interfere with the rights and interests of the coastal State.

6.4 Regional arrangements

PROVISION XI

Formula A

Coastal States and land-locked and other geographically disadvantaged States within a region or subregion may enter into any arrangement for the establishment of regional or subregional . . . zones with a view to giving effect to the provisions of articles . . . and . . . on a collective basis.

Formula B

Coastal States and neighbouring land-locked States shall have the right to establish jointly *regional economic zones* between the 12-mile territorial sea and up to a maximum distance of 200 nautical miles, measured from the applicable baselines of the territorial sea.

Formula C

States in a region may establish regional or subregional arrangements for the purposes of developing and managing the living resources, promoting scientific research presenting and controlling pollution, and for the purpose of peaceful settlement of disputes.

6.5 Limits: applicable criteria

PROVISION XII

Formula A

The outer limit of the patrimonial sea shall not exceed 200 nautical miles from the applicable baselines for measuring the territorial sea.

Formula B

The limits of the economic zone shall be fixed in nautical miles in accordance with criteria in each region, which take into consideration the resources of the region and the rights and interests of developing land-locked, near land-locked, shelf-locked States and States with narrow shelves and without prejudice to limits adopted by any State within the region. The economic zone shall not in any case exceed 200 nautical miles, measured from the baselines for determining the territorial sea.

6.6 Fisheries

6.6.1 Exclusive fishery zone

PROVISION XIII

Formula A

In the economic zone the coastal State shall exercise sovereign rights for the purpose of exploration, exploitation, conservation and management of the living resources including fisheries, in this zone, and shall adopt from time to time such measures as it may deem necessary and appropriate. The living resources may be plant or animal, and may be located on the water surface, within the water column, on the sea-bed or in the Subsoil thereof.

Formula B

The coastal State exercises exclusive rights for the purpose of regulating fishing within the economic zone, subject to the provisions of these articles.

PROVISION XIV

All fishing activities in the exclusive economic zone and the rest of the sea shall be conducted with due regard to the interests of the other States in the legitimate uses of the sea. In the exercise of their rights, the other States shall not interfere with fishing activities in the exclusive economic zone.

PROVISION XV

The coastal State shall co-operate with the appropriate regional and international organizations concerned with fishery matters when exercising its rights over living resources in the economic zone and, taking into account their recommendations shall maintain the maximum allowable catch of fish and other living resources.

PROVISION XVI

Formula A

The coastal State may allow nationals of other States to fish in its exclusive economic zone, subject to such terms, conditions and regulations as it may from time to time prescribe. These may, *inter alia*, relate to the following:

(a) Licensing of fishing vessels and equipment, including payment of fees and other forms of remuneration;
(b) Limiting the number of vessels and the number of gear that may be used;
(c) Specifying the gear permitted to be used;
(d) Fixing the periods during which the prescribed species may be caught,
(e) Fixing the age and size of fish that may be caught,

(f) Fixing the quota of catch, whether in relation to particular species of fish to catch per vessel over a period of time or to the total catch of nationals of one State during a prescribed period.

Formula B

1. Pursuant to its exclusive jurisdiction, it would be for the coastal State to determine the allowable catch of any particular species, and to allocate to itself that portion of the allowable catch, up to 100 percent, that it can harvest.

2. Where the coastal State is unable to take 100 per cent of the allowable catch of a species as determined under the principles, it shall allow the entry of foreign fishing vessels with a view to maintaining the maximum possible food supply. Such access shall be granted up to the level of allowable catch on an equitable basis without the imposition of unreasonable conditions and in accordance with the provisions of these articles.

Formula C

1. The coastal State shall ensure the full utilization of renewable resources within the economic zone.

2. For this purpose, the coastal State shall permit nationals of other States to fish for that portion of the allowable catch of the renewable resources not fully utilized by its nationals, subject to the conservation measures adopted pursuant to * * * (Provisions XII and XX), and on the basis of the following priorities:

(a) States that have normally fished for a resource, subject to the conditions of paragraph 3;

(b) States in the region, particularly land-locked States and States with limited access to living resources off their coast; and

(c) All other States.

The coastal State may establish reasonable regulations and require the payment of reasonable fees for this purpose.

3. The priority under paragraph 2(a) above shall be reasonably related to the extent of fishing by such State. Whenever necessary to reduce such fishing in order to accommodate an increase in the harvesting capacity of a coastal State, such reduction shall be without discrimination, and the coastal State shall enter into consultations for this purpose at the request of the State or States concerned with a view to minimizing adverse economic consequences of such reduction.

4. The coastal State may consider foreign nationals fishing pursuant to arrangements under articles 14 and 15 [Provisions VII and XVII, Formula B] as nationals of the coastal State for purposes of paragraph 2 above.

PROVISION XVII

Formula A

Neighbouring developing coastal States shall allow each other's nationals the right to fish in a specified area of their respective fishery zones on the basis of long and mutually recognized usage and economic dependence on exploitation of the resources of that area. The modalities of the exercise of this right shall be settled by agreement between the States concerned. This right will be available to the nationals of the State concerned and cannot be transferred to third parties by lease or licence, by establishing joint collaboration ventures, or by any other arrangement. Jurisdiction and control over the conservation, development and management of the resources of the specified area shall lie with the coastal State in whose zone that area is located.

Formula B

Neighbouring coastal States may allow each other's nationals the right to fish in a specified area of their respective economic zones on the basis of reciprocity, or long and mutually recognized usage, or economic dependence of a State or region thereof on exploitation of the resources of that area. The modalities of the exercise of this right shall be settled by agreement between the States concerned. Such right cannot be transferred to third parties.

Formula C

1. Measures adopted by the coastal State shall take account of traditional subsistence fishing carried out in any part of the fisheries zone.

2. When the coastal State intends to allocate to itself the whole of the allowable catch of a species, in accordance with these principles, it shall enter into consultations with any other State which requests such consultations and which is able to demonstrate that its vessels have carried on fishing in the fishery resources zone on a substantial scale for a period of not less than [10] years with a view to—

(a) analysing the catch and effort statistics of the other State in order to establish the level of fishing operations carried out in the zone by the other State;

(b) negotiating special arrangements with the other State under which the latter's vessels would be "phased out" of the fishery having regard to the developing fishing capacity of the coastal State; and

(c) in the event of agreement not being reached through consultation there shall be a "phasing out" period of [five] years.

6.6.2 Preferential rights of coastal States

PROVISION XVIII

On the basis of appropriate scientific data and in accordance with the recommendations of the competent international fishery organizations consisting of representatives of interested States in the region concerned and other States engaged in fishing in the region, the coastal State shall determine in the economic zone.—

(a) the allowable annual catch of each species of fish or other living marine resources except highly migratory species of fish;

(b) the proportion of the allowable annual catch of each species of fish or other living marine resources that it reserves for its nationals;

(c) that part of the allowable annual catch of fish or other living marine resources that may be taken by other States holding licences to fish in the economic zone in accordance with articles . . . .

PROVISION XIX

1. . . .

2. Permission for foreign fishermen to fish in the economic zone of a developed coastal State shall be granted on an equitable basis and in accordance with the provisions of . . . of this Convention.

3. Foreign fishermen may be allowed to fish in the economic zone of a developing coastal State by the grant of a special licence and in accordance with the provisions of . . . of this Convention.

4. When granting foreign vessels permission to fish in the economic zone and in order to ensure an equitable distribution of living resources, a coastal State shall observe, while respecting the priority of the States specified in . . . of this Convention, the following order:

(a) States which have borne considerable material and other costs of research discovery, identification and exploitation of living resource stocks, or which have been fishing in the region involved;

(b) Developing countries, land-locked countries, countries with narrow access to the sea or with narrow continental shelve, and countries with very limited living marine resources;

(c) . . .

5. Any questions of payment for the grant of licences to foreign fishermen to fish in the economic zone of a developing coastal State shall be settled in accordance with the provisions of this Convention and the recommendations of the competent international fishery organizations and by agreement between the States concerned.

6. Payment for fishing permits granted to foreign fishermen in the economic zone of a developing coastal State shall be levied on a reasonable basis and may take various forms.

PROVISION XX

In order to enable the fishing fleet of other States whose fishermen have habitually fished in the economic zone established pursuant to article . . . of this Convention to change over to working under the new conditions, a coastal State shall continue to grant the fishermen specified in this article the right to fish in the economic zone for a transition period of not less than three years after the entry into force of this Convention.

6.6.3 Management and Conservation

PROVISION XXI

Formula A

1. In adopting measures to conserve living resources in the economic zone, the coastal State shall endeavour to maintain the productivity of species and avoid harmful effects for the survival of living resources outside the said zone.

2. The coastal State shall, for the foregoing purposes, promote any necessary co-operation with other States and with competent international organizations.

Formula B

1. It shall be the responsibility of the coastal State to provide proper management and utilization of the living resources within its zone of exclusive jurisdiction, including—

(a) maintenance of the level of stocks which will provide the maximum sustainable yield;

(b) rational utilization of the resources and the promotion of economic stability coupled with the highest possible food production; and

(c) Where the resource is required for direct human consumption in the coastal State, the highest possible priority to be given to the production of fish for direct human consumption.

2. Measures that the coastal State may take include—

(a) Requiring licensing by it of fishing vessels and equipment to operate in the zone;

(b) limiting the number of vessels and the number of units of gear that may be used;

(c) specifying the gear permitted to be used;

(d) fixing the period during which fish or fish of a species or class may be taken;

(e) fixing the size of fish that may be taken;

(f) specifying the method of fishing that may be used in a specified area or for taking a specified species or class of fish and prohibiting any other methods.

3. The coastal State has responsibility to conduct research on the resources within the zone to enable it to fulfil its responsibility to provide proper management and rational utilization of those resources. It shall publish the results of that research within a reasonable period. Other States operating within the zone shall assist in the research programmes and shall provide comprehensive catch, effort and biological data at reasonable intervals as required.

Formula C

1. States shall co-operate in the elaboration of global and regional standards and guidelines for the conservation, allocation, and rational management of living resources directly or within the framework of appropriate international and regional fisheries organizations.

2. Coastal States of a region shall, with respect to fishing for identical or associated species, agree upon the measures necessary to co-ordinate and ensure the conservation and equitable allocation of such species.

3. Coastal States shall give to all affected States timely notice of any conservation, utilization and allocation regulations prior to their implementation, and shall consult with such States at their request.

An international register of independent fisheries experts shall be established and maintained by the Food and Agriculture Organization of the United Nations. Any developing State party to the Convention desiring assistance may select an appropriate number of such experts to serve as fishery management advisers to that State.

PROVISION XXII

Formula A

The objective of conservation measures is to achieve the maximum sustainable yields of fishery resources and thereby to secure and maintain a maximum supply of food and other marine products.

(1) Conservation measures must be adopted on the basis of the best scientific evidence available. If the States concerned cannot reach agreement on the assessment of the conditions of the stock to which conservation measures are to be applied, they shall request an appropriate international body or other impartial third party to undertake the assessment. In order to obtain the fairest possible assessment of the stock conditions, the States concerned shall co-operate in the establishment of regional institutions for surveying and research into fishery resources.

(2) No conservation measures shall discriminate in form or fact between fishermen of one State from those of other States.

(3) Conservation measures shall be determined, to the extent possible, on the basis of the allowable catch estimated with respect to the individual stocks of fish. The foregoing principle, however, shall not preclude conservation measures

from being determined on some other bases in cases where, due to lack of sufficient data, an estimate of the allowable catch is not possible with any reasonable degree of accuracy.

(4) No State can be exempted from the obligation to adopt conservation measures on the ground that sufficient scientific findings are lacking.

(5) The conservation measures adopted shall be designed so as to minimize interference with fishing activities relating to stocks of fish, if any, which are not the object of such measures.

(6) Conservation measures and the data on he basis of which such measures are adopted shall be subject to review at appropriate intervals.

Formula B

1. The coastal State shall ensure the conservation of renewable resources within the economic zone.

2. For this purpose, the coastal State shall apply the following principles:

(a) allowable catch and other conservation measures shall be established which are designed, on the best evidence available to the coastal State, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, taking into account relevant environmental and economic factors, and any generally agreed global and regional minimum standards;

(b) such measures shall take into account effects on species associated with or dependent upon harvested species and at a minimum, shall be designed to maintain or restore populations of such associated or dependent species above levels at which they may become threatened with extinction;

(c) for this purpose, scientific information, catch and fishing effort statistics, and other relevent data, shall be contributed and exchanged on a regular basis;

(d) conservation measures and their implementation shall not discriminate in form or fact against any fishermen. Conservation measures shall remain in force pending the settlement, in accordance with the provisions of chapter . . . of any disagreement as to their validity.

PROVISION XXIII

Formula A

1. Fisheries for anadromous fish shall be conducted only within the exclusive economic zones of coastal States and subject to the terms, conditions and regulations which they may from time to time prescribe.

2. The coastal State in whose waters anadromous fish spawn shall have responsibility for the management of these stocks and for the maintenance of such stocks at their optimum level.

3. When fisheries for anadromous species originating in one State are conducted by other States within their own exclusive fishery zones, such fisheries shall be regulated by agreement between the coastal State (or States) concerned and the State (or States) or origin, taking into account the preferential rights of the State (or States) of origin and its (or their) responsibility for the maintenance of the stocks.

Formula B

1. The conservation and management of anadromous species shall be regulated through arrangements among the States participating in the exploitation of such species and, where appropriate, through regional intergovernmental organizations established for this purpose.

2. The special interest of the coastal State, in whose fresh or estuarine waters anadromous species spawn, shall be taken into account in the arrangements for regulating such species.

Formula C

1. Coastal States in whose rivers anadromous species of fish (*salmonidae*) spawn shall have sovereign rights over such fish and all other living marine resources within the economic zone and preferential rights outside the zone in the migration area of anadromous fish.

2. Fishing by foreign fisheries for anadromous species may be carried on by an agreement between the coastal State and another interested State establishing regulatory and other conditions governing fishing by foreign nationals.

3. Priority in obtaining the right to fish for anadromous species shall be given to States participating jointly with the coastal States in measures to renew that species of fish, particularly in expenditure for that purpose, and to States which have traditionally fished for anadromous species in the region concerned.

Formula D

1. Fishing for anadromous species seaward of the territorial sea (both within and beyond the economic zone) is prohibited, except as authorized by the State of origin in accordance with articles . . . and . . .

2. States through whose internal waters or territorial sea anadromous species migrate shall co-operate with the State of origin in the conservation and utilization of such species.

Formula E

1. The exploitation of anadromous species shall be regulated by agreement among interested States or by international arrangements through the appropriate intergovernmental fisheries organization.

2. All interested States shall have an equal right to participate in such arrangements and organizations. Any arrangement shall take into account the interest of the State of origin and the interests of other coastal States.

PROVISION XXIV

1. Fisheries for catadromous fish shall be conducted only within the fishery [economic] zones of coastal States and subject to the terms, conditions and regulations that they may prescribe.

2. The Coastal State in whose waters catadromous fish spend the greater part of their life cycle (hereinafter called the producing State) shall have the responsibility for the management of these stocks and their maintenance at optimum levels; in particular, the producing State shall ensure the ingress and egress of migrating fish.

3. In circumstances where catadromous fish migrate through the fishery [economic] zone of another State or States, whether as juvenile or maturing fish, the management of such fisheries, including harvesting, shall be regulated by agreement between the producing State and the other State or States concerned, which agreement shall both ensure the maintenance of the stocks at their optimum levels and take into account the preferential rights of the producing State and its responsibility for the maintenance of such stocks.

PROVISION XXV

Formula A

Fishing for highly migratory species shall be regulated in accordance with the following principles:

A. *Management.* Fishing for highly migratory species listed in annex A within the economic zone shall be regulated by the coastal State, and beyond the economic zone by the State cf nationality of the vessel, in accordance with regulations established by appropriate international or regional fishing organizations pursuant to this article.

(1) All coastal States in the region, and any other State whose flag vessels harvest a species subject to regulation by the organization, shall participate in the organization. If no such organization has been established, such States shall establish one.

(2) Regulations of the organization in accordance with this article shall apply to all vessels fishing the species regardless of their nationality.

B. *Conservation.* The organization shall, on the basis of the best scientific evidence available, establish allowable catch and other conservation measures in accordance with the principles of article 12.

C. *Allocation.* Allocation regulations of the organization shall be designed to ensure full utilization of the allowable catch and equitable sharing by member States.

(1) Allocations shall take into account the special interests of the coastal State within whose economic zone highly migratory species are caught, and shall for this purpose apply the following principles within and beyond the economic zone: [insert appropriate principles].

(2) Allocations shall be designed to minimize adverse economic consequences in a State or region thereof.

D. *Fees.* The coastal State shall receive reasonable fees for fish caught by foreign vessels in its economic zone, with a view to making an effective contribution to coastal State fisheries management and development programmes. The organization shall establish rules for the collection and payment of such fees, and shall make appropriate arrangements with the coastal State regarding the establishment and application of such rules. In addition, the organization may collect fees on a

non-discriminatory basis based on fish caught both within and outside the economic zone for administrative and scientific research purposes.

E. *Prevention of Interference.* The organization shall establish fishing regulations for highly migratory species in such a way as to prevent unjustifiable interference with other uses of the sea, including coastal State fishing activities, and shall give due consideration to coastal State proposals in this regard.

F. *Transition.* Pending the establishment of an organization in accordance with this article, the provisions of this article shall be applied temporarily by agreement among the States concerned.

G. *Interim Measures.* If the organization or States concerned are unable to reach agreement on any of the matters specified in this article, any State party may request, on an urgent basis, pending resolution of the dispute, the establishment of interim measures applying the provisions of this article pursuant to the dispute settlement procedures specified in chapter__. The immediately preceding agreed regulations shall continue to be observed until interim measures are established.

Formula B

1. Any coastal State in whose economic zone or other waters (archipelagic, territorial and internal waters) highly migratory species are found or taken and any State whose vessels take such species may request the opinion of the Director-General of FAO as to whether proper management of such species requires the setting up of an appropriate international or regional organization. The Director-General of FAO shall respond within 90 days of any such request, rendering his opinion, and if such opinion is positive, designating the members of the organization. In addition the Director-General may recommend the institutional arrangements for the organization. All designated States shall have the obligation to take all action necessary to establish the organization within the shortest possible time.

2. All States shall co-operate fully with an appropriate international or regional organization (being either an organization which exists on the date of entry into force of this article or an organization set up pursuant to this article) established and empowered to issue regulations to conserve and manage the species concerned, including the allocation of national quotas.

3. In the absence of agreement to the contrary decisions of the organizations shall require an affirmative vote of two thirds of its members.

4. The organization in formulating regulations shall take into account the following criteria:

A. The coastal State's right in priority to other States to harvest the regulated species within its economic zone to the extent of its harvesting capacity subject only to conservation measures issued by the organization in order to maintain or restore the regulated species.

B. The rational utilization of such species within its maximum sustainable yield based on the best available scientific evidence.

C. Traditional harvesting patterns both in the region and in the economic zone, taking into account the desirability of avoiding to the maximum extent possible severe economic dislocations in any State as a result of the application of this article.

D. The criteria applicable to other than highly migratory species, as set out in article . . .

5. A. The organization shall fix a uniform fee for fish caught whether inside or outside an economic zone, provided that a coastal State shall be exempt from such fee in respect of fish caught by its vessels in its economic zone or other waters.

B. The uniform fee shall be fixed at a reasonable level, with a view to providing for—

(1) The organization's administrative expenses.

(2) Effective contribution to management and development programmes for the species concerned.

(3) Enforcement.

(4) Scientific research.

C. The coastal State shall receive the uniform fee paid in respect of fish caught by foreign vessels within its economic zone.

D. The organization shall establish rules for the collection and payment of the uniform fee, and shall make appropriate arrangements with the coastal State regarding the establishment and application of such rules.

E. The organization may require a member to make a minimum contribution to its budget, taking into account fees received by the organization in request of fishing by the member's nationals.

6. Each State shall give effect to the regulations issued by the organization:

A. Within its economic zone or other waters it shall apply those regulations to all persons and vessels.

B. Outside its economic zone it shall apply those regulations to vessels flying its flag.

PROVISION XXVI

Notwithstanding the provisions of this chapter with respect to full utilization of living resources, nothing herein shall prevent a coastal State or international organization, as appropriate, from prohibiting the exploitation of marine mammals

PROVISION XXVII

Formula A

1. The coastal State may itself exercise control over the observance of the fishing regulatory measures initiated by it under article . . .

2. In cases where the competent authorities of the coastal State have sufficient reasons for believing that a foreign vessel engaged in fishing is violating these measures, they may stop the vessel and inspect it, and also draw up a statement of the violations. The consideration of cases which may arise in connexion with violations of the said measures by a foreign vessel, as well as the punishment of members of the crew guilty of such violations, shall be effected by the flag State of the vessel which has committed the violation. Such State shall notify the coastal State of the results of the investigation and of measures taken by it.

Formula B

1. The coastal State may, in the exercise of its rights under this chapter with respect to the renewable natural resources, take such measures, including inspection and arrest, in the economic zone, and, in the case of anadromous species, seaward of the economic zones of the host State and other States, as may be necessary to ensure compliance with its laws and regulations, provided that when the State of nationality of a vessel has effective procedures for the punishment of vessels fishing in violation of such laws and regulations, such vessels shall be delivered promptly to duly authorized officials of the State of nationality of the vessel for legal proceedings, and may be prohibited by the coastal State from any fishing in the zone pending disposition of the case. The State of nationality shall within six months after such delivery notify the coastal State of the disposition of the case.

Formula C

The jurisdiction and control over all fishing activities within the exclusive economic zone shall lie with the coastal State concerned.

2. Regulations adopted by international organizations in accordance with article . . . shall be enforced as follows:

(a) Each State member of the organization shall make it an offence for its flag vessels to violate such regulations, and shall co-operate with other States in order to ensure compliance with such regulations.

(b) The coastal State may inspect and arrest foreign vessels in the economic zone for violating such regulations. The organization shall establish procedures for arrest and inspection by coastal and other States for violations of such regulations beyond the economic zone.

(c) An arrested vessel of a State member of the organization shall be promptly delivered to the duly authorized officials of the flag State for legal proceedings if if requested by that State.

(d) The State of nationality of the vessel shall notify the organization and the arresting State of the disposition of the case within six months.

3. Arrested vessels and their crew shall be entitled to release upon the posting of reasonable bond or other security. Imprisonment or other forms of corporal punishment in respect of conviction for fishing violations may be imposed only by the State of nationality of the vessel or individual concerned.

6.7 Sea-bed within national jurisdiction

PROVISION XXVIII

1. The coastal State shall comply with legal arrangements which it has entered into with other contracting States, their instrumentalities, or their nationals in respect to the exploration or exploitation of non-renewable natural resources; shall not take property of such States, instrumentalities or nationals except for a public purpose on a non-discriminatory basis and with adequate provision at the time of taking for prompt payment of just compensation in an effectively realizable form; and

2. The coastal State shall pay, in respect of the exploitation of such non-renewable resources seaward of the territorial sea or the 200-metre isobath, whichever is further seaward (*insert formula*), to be used, as specified in article . . ., for international community purposes, particularly for the benefit of developing countries.

6.7.1 Nature and characteristics
6.7.2 Delineation between adjacent and opposite States

PROVISION XXIX

Formula A

The delineation of the economic zone between adjacent and opposite States shall be carried out in accordance with international law.

Formula B

1. Where the coasts of two or more States are adjacent or opposite to each other and the distance between them is less than double the uniform breadth, provided in this Convention, the delimitation of their economic zone, and of their sea-bed areas shall be determined by agreement among themselves.
2. Failing such agreement, no State is entitled to extend its rights over an economic zone and sea-bed area beyond the limits of the medium line every point of which is equidistant from the nearest points of the baselines, . . . from which the breadth of the above area of each of the two States is measured.

Formula C

1. Where the coasts of two or more States are adjacent or opposite to each other the delimitation of the respective economic zone shall be determined by agreement among them in accordance with equitable principles taking into account all the relevant factors including *inter alia*, the geomorphological structure of the sea-bed area involved, and special circumstances . . . .
2. The States shall make use of the methods envisaged in Article 33 of the Charter of the United Nations, as well as those established under international agreements to which they are parties, or other peaceful means open to them in case any of the parties refuses to enter into or continue negotiations or in order to resolve divergences which may arise during such negotiations.
3. The States may decide to apply any one or a combination of methods and principles appropriate for arriving at an equitable delimination based on agreement.

Formula D

1. The delimitation of the continental shelf or the exclusive economic zone between adjacent and/or opposite States must be done by agreement between them, in accordance with an equitable dividing line, the median or equidistance line not being necessarily the only method of delimitation.
2. For this purpose, special account should be taken of geological and meomorphological criteria, as well as of all the special circumstances . . .

PROVISION XXX

Nothing provided herein shall prejudice the existing agreements between the coastal States concerned relating to the delimitation of the boundary of their respective coastal sea-bed area.

6.7.3 Sovereign rights over natural resources

PROVISION XXXI

The coastal State exercises over the sea-bed and subsoil of the submarine area adjacent to the coast but outside the area of the territorial sea, hereinafter referred to as the coastal sea-bed area, sovereign rights for the purpose of exploring it and exploiting its mineral resources.

6.7.4. Limits

PROVISION XXXII

The coastal States shall have the right to establish the coastal sea-bed area up to a maximum distance of 200 nautical miles from the baseline for measuring the breadth of the territorial sea set out in . . .

6.8 Prevention and control of pollution and other hazards to the marine environment

PROVISION XXXIII

Formula A

A coastal State shall [also] have jurisdiction to enforce in the maritime area adjacent to its territorial sea such measures as it may enact in order to prevent, mitigate or eliminate pollution damage and risks and other effects harmful or dangerous to the ecosystem of the marine environment, the quality and use of water, living resources, human health and the recreation of its people, taking into account co-operation with other States and in accordance with internationally agreed principles and standards.

Formula B

The coastal State shall exercise its rights and obligations in the economic zone in accordance with the provisions of the present Convention, with due regard to other legitimate uses of the high seas and bearing in mind the need for a national exploitation of the natural resources of the sea and the preservation of the sea environment.

Formula C

In exercising its rights with respect to installations and sea-bed activities in the economic zone, the coastal State may establish standards and requirements for the protection of the marine environment additional to or more stringent than those required by applicable international standards.

PROVISION XXXIV

In exercising its rights with respect to installations and sea-bed activities, the coastal State shall take all appropriate measures in the economic zone for the protection of the marine environment from pollution, and ensure compliance with international minimum standards for this purpose established in accordance with the provisions of chapter—(pollution).

PROVISION XXXV

1. Every State undertakes to make the discharge of pollutants into the sea an offence punishable by adequate penalties.
2. Every State undertakes to make suitable provisions for the admission by its courts of law of documentary evidence, submitted by competent authorities of another State, concerning the commission by ships operating under its flag of an offence in respect of discharge of pollutants into the sea.

6.9 Scientific research

PROVISION XXXVI

Formula A

It is also for the coastal State to authorize such scientific research activities as are carried on in the area; it is entitled to participate in them and to receive the results obtained. In such regulations as the coastal State may issue on the matter, the desirability of promoting and facilitating such activities shall be taken especially into account.

Formula B

Within the limits of the economic zone each State may freely carry out fundamental scientific research unrelated to the exploration and exploitation of the living or mineral resources of the zone. Scientific research in the economic zone related to the living and mineral resources shall be carried out with the consent of the coastal State.

[Informal Working Paper No. 5/Rev. 1, Aug. 26, 1974]

[Original: English]

Formulation of Main Trends

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

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The fact of including these formulations does not imply any opinion on the degree of support they have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. It does not imply either that all the proposals from which these formulations have been taken have been the subject of discussion. The inclusion of a provision in this paper, whether or not only one formula appears, does not necessarily imply that there are no other opinions concerning these questions or that all or most delegations agree on the necessity for such a provision.

All the proposals submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus, the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of taking any decisions at the present stage, in accordance with the method of work adopted by the Committee at its meeting on 3 July, once this task has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

In submitting this informal working paper, the Bureau is conscious of the fact that the provisions contained therein are in fact mutually exclusive alternatives to the provisions contained in the informal working paper No. 4 on the exclusive economic zone.

In submitting this paper the Bureau considers it necessary to stipulate that for purely methodological reasons, the positions of those delegations for whom the concept of a zone of preferential rights would be subsumed in a territorial sea that could be extended up to 200 miles, is not reflected as a trend in this paper.

With respect to item 7.4 (prevention and control of pollution and other hazards to marine environment) it should be noted that there are other proposals under consideration in the Third Committee.

The question of the settlement of disputes will be considered under item 21 (settlement of disputes). The Committee will then consider whether to place all the provisions in a separate chapter or to split them into relevant chapters.

ITEM 7.—COASTAL STATE PREFERENTIAL RIGHTS OR OTHER NON-EXCLUSIVE JURISDICTION OVER RESOURCES BEYOND THE TERRITORIAL SEA

7.1 Nature, scope and characteristics.
Provision I-II: General.
Provision III: Limits.
Provision IV: Delimitation.
7.2 Sea-bed resources.
7.3 Fisheries.
Provision V: Allocation of resources.
Provision VI: Regulatory measures.
Provision VII: Enforcement.
7.4 Prevention and control of pollution and other hazards to the marine environment
7.5 International co-operation on the study and rational exploitation of marine resources.
Provision VIII: Special rights and duties of coastal States.
Provision IX: Assistance to developing States.
Provision X: International and regional organizations.
Provision XI: Existing agreements.
Provision XII: Special regimes among customs union members.

Item 7.—Coastal State Preferential Rights or Other Non-Exclusive Jurisdiction Over Resources Beyond the Territorial Sea

7.1 Nature, scope and characteristics

PROVISION I

In a zone beyond its territorial sea, hereinafter called "the zone", the coastal State may exercise the rights and powers set forth in these articles.

PROVISION II

1. Subject to the articles set forth below, all States shall have the right to allow their nationals to engage in the exploitation of the fishery resources of the sea.

2. Such exploitation shall be regulated for the benefit of nationals of all States in such a way as to ensure the rational exploitation and conservation of the fishery resources of the sea in the interest of mankind as a whole.

3. For these purposes—

(a) in the zone referred to in . . ., coastal States shall enjoy the fishing rights defined in these articles;

(b) all States shall maintain close co-operation at both the world and the regional levels in accordance with the following articles.

PROVISION III

1. The zone shall not extend beyond (x) nautical miles measured from the baseline of the territorial sea.

2. The extent of the zone shall be determined by the coastal State, within the limit referred to in paragraph 1, taking into account all relevant factors, in particular the geographical characteristics of the area and the fishery resources and their distribution off its coasts.

PROVISION IV

Where the coasts of two States are opposite or adjacent to each other, the delimitation of their respective zones within the limit specified in article . . . shall, failing agreement between them, be established in accordance with the provisions of article . . .

7.2 Sea-bed resources
7.3 Fisheries

PROVISION V

Formula A

1. To the extent consistent with the objective of conservation, a coastal State shall have a preferential right to ensure adequate protection to its coastal fisheries conducted in the adjacent waters, immediately beyond the limit of 12 miles from its coast, as follows:

(i) In the case of a developing coastal State:

The coastal State is entitled annually to reserve for its flag vessels that portion of the allowable catch of a stock of fish it can harvest on the basis of the fishing capacity of its coastal fisheries. In determining the part of the allowable catch to be reserved for the developing coastal State, the rate of growth of the fishing capacity of that State shall be duly taken into account until it has developed that capacity to the extent of being able to fish for a major portion of the allowable catch of the stock of fish.

(ii) In the case of a developed coastal State:

The coastal State is entitled annually to reserve for its flag vessels that portion of the allowable catch of a stock of fish which is necessary to maintain its locally conducted small-scale coastal fisheries. The interests of traditionally established fisheries of other States shall be duly taken into account in determining the catch to be reserved for such small-scale coastal fisheries.

2. Measures to implement the preferential rights shall be determined by agreement among the coastal and non-coastal States concerned on the basis of the proposals made by the coastal State. For the purpose of such proposals, the coastal State may seek technical assistance from the Food and Agriculture Organization of the United Nations or such other appropriate organs.

3. The size of the preferential right of a coastal State shall be fixed within the limit of the allowable catch of the stock of fish subject to allocation, if the allowable catch for that stock is already estimated for conservation purposes. In cases where the estimate of the allowable catch is not available, the coastal and non-coastal States concerned shall agree on necessary measures in a manner which will best enable the coastal State to benefit fully from its preferential right.

4. No special status in the conservation of resources and no preferential rights shall be recognized to a coastal State in respect of highly migratory stocks of fish. The conservation and regulation of such stocks shall be carried out pursuant to international consultations or agreements in which all interested States shall participate, or through the existing international or regional fishery organizations should such be the case.

5. No special status in the conservation of resources and no preferential rights shall be recognized to a coastal State in respect of anadromous stocks of fish. The conservation and regulation of such stocks shall be carried out pursuant to

nternational consultations or agreements in which all interested States shall participate, or through the existing international or regional fishery organizations should such be the case.

Formula B

1. When in the interests of conserving any species it is necessary for the coastal State to fix a total allowable catch within its zone, it shall determine the total allowable catch so as to ensure the maintenance of the maximum sustainable yield.

2. The coastal State shall submit the figures determined pursuant to paragraph 1 to the appropriate regional or sectoral organizations. Those organizations may, on the basis of all relevant scientific data, recommend other figures.

3. Two or more coastal States may by mutual agreement decide to request a regional or sectoral fishing organization of their choice to determine the figures provided for in paragraph 1 for all stocks exploited jointly.

4. Within the framework of the above-mentioned aims of rational exploitation and conservation of fishery resources and taking account of the maximum allowable catch determined by the coastal State pursuant to paragraphs 1–3, as well as any recommendations made by appropriate organizations also pursuant to paragraph 3, the coastal State may reserve in its zone that part of the allowable catches of one or more species which vessels flying its flag are able to take.

5. When exercising its right under paragraph 4, the coastal State shall duly take into account the right of access of other States and particularly of—

(a) States which have habitually fished in the zone;

(b) developing States of the same region, provided such States have not invoked paragraph 1 above to reserve for vessels flying their flag all the fish they can catch in their own zone;

(c) States whose economies are to a very large extent dependent on fishing, where such States have not satisfied their needs by invoking the provisions of this article;

(d) States of the same region with limited fishery resources whose economy is especially dependent on fishing;

(e) land-locked States.

6. In implementing paragraphs 4 and 5, allowance shall be made for cases where the coastal State adopting the measures referred to in paragraphs 4 and 5 is a developing country or a country whose economy is to a very large extent dependent on fishing.

A coastal State may claim the same right with respect to those parts of its territory in which the population is especially dependent on fishing for its livelihood and lacks alternative opportunities for permanent employment.

7. A coastal State wishing to avail itself of paragraphs 4–6 shall, in accordance with article . . . notify the competent organization of the proposals concerning the rights to one or more species in its zone which it wishes to have reserved to vessels flying its flag and those to be granted to other States. The organization shall immediately hold consultations on these proposals. Failing agreement within four months of notification, the coastal State may determine, at a level equal to or lower than the proposed level, the rights it will reserve to vessels flying its flag.

8. Any State which considers that such decision taken by the coastal State is in violation of the rights accruing to it under paragraphs 4–6 may, within two months, have recourse to the procedure for settlement of disputes provided for in article . . .

9. Pending the decision of the Special Committee, the decision taken by the coastal State shall remain provisionally valid. However, the State which has referred the matter to the Special Committee, pursuant to paragraph 8 above, may in addition request the latter to prescribe certain provisional measures. The Committee shall rule thereon within six weeks.

10. Every year, the decisions taken by the coastal State and the Special Committee and the agreement of the States concerned, as provided for in the preceding paragraphs, may be reviewed by the orgainzation at the request of any of the interested parties. The provisions of paragraphs 2 to 9 shall apply to such review.

PROVISION VI

Formula A

1. The regulatory measures adopted to implement the preferential right of a coastal State may include catch allocation (quota by country) and/or such other supplementary measures as will be made applicable to vessels of non-coastal States engaged in fishing in the adjacent water of the coastal State, including—

(a) the establishment of open and closed seasons during which fish may or may not be harvested,

(b) the closing of specific areas to fishing,
(c) the regulation of gear or equipment that may be used,
(d) the limitation of catch of a particular stock of fish that may be harvested.

2. The regulatory measures adopted shall be so designed as to minimize interference with the fishing of non-coastal States directed to stocks of fish, if any, which are not covered by such measures.

Formula B

1. Measures necessary for maintaining, re-establishing or attaining the maximum yield from fishing shall be adopted by States and organizations. These measures shall be based on scientific data and take into account technical and economic considerations. They shall be adopted, subject to these articles, in the light of the regional situation and without discrimination as to form or substance.

2. The measures referred to in paragraph 1 shall be formulated having regard to the need to secure a supply of food for human consumption.

3. The measures referred to in paragraph 1 may include—
(a) fixing the total allowable catch and its possible allocation;
(b) regulation of fishing activity;
(c) the establishment of closed seasons;
(d) a temporary ban on fishing in certain areas of the sea;
(e) any technical measures (relating, for example, to fishing gear, mesh sizes, fishing methods, minimum sizes of fish caught, etc.).

4. In accordance with the principles of rational exploitation and conservation, the regulatory measures referred to in paragraphs 1–3 shall be taken by the coastal State in its zone.

Vessels fishing in a zone subject to regulation under the conditions provided for in paragraph 4 shall respect the relevant regulations adopted by the coastal State.

The States whose flags are flown by such vessels shall take the necessary steps to ensure that these regulations are respected.

PROVISION VII

Formula A

1. With respect to regulatory measures adopted pursuant to the present régime, those coastal States which are entitled to preferential rights, and/or special status with respect to conservation, have the right to control the fishing activities in their respective adjacent waters. In the exercise of such right, the coastal States may inspect vessels of other States and arrest those vessels violating the regulatory measures adopted. The arrested vessels shall, however, be promptly delivered to the flag States concerned. The coastal States may not refuse the participation of other States in controlling the operation, including boarding officials of the other States on the coastal States patrol vessels at the request of the latter States. Details of control measures shall be agreed upon among the parties concerned.

2. Each State shall make it an offence for its nationals to violate any regulatory measures adopted pursuant to the present régime.

3. Nationals on board a vessel violating the regulatory measures in force shall be duly prosecuted by the flag State concerned.

4. Reports prepared by the officials of a coastal State on the offence committed by a vessel of a non-coastal State shall be fully respected by that non-coastal State, which shall notify the coastal State of the disposition of the case as soon as possible.

Formula B

1. The coastal State may stop, board and inspect fishing vessels within its zone, if it has valid reason to suspect that they have committed a breach of the fishery regulations as provided for in these articles.

2. The coastal State may also prosecute and punish offences committed by such vessels unless the flag State has established a procedure permitting the prosecution and punishment of breaches of the fishery regulations of the coastal State adopted in conformity with these articles.

3. In that case, the coastal State shall send a report attesting the breach of regulations to the flag State and shall furnish the flag State with any particulars constituting evidence that such breach has been committed. Within a period of six months from the receipt of the report attesting that breach, the flag State shall make known to the coastal State whether or not it has brought the matter before its judicial authorities so that proceedings may be instituted.

4. Should the flag State not bring the matter before its judicial authorities, or should it fail to reply, the coastal State shall have the right to refer the matter to its own courts.

5. If the flag State has decided to bring the matter before its judicial authorities, it shall inform the coastal State of the outcome of the proceedings.

7.4 Prevention and control of pollution and other hazards to the marine environment

7.5 International co-operation on the study and rational exploitation of marine resources

PROVISION VIII

1. A coastal State shall be recognized as having special status with respect to the conservation of fishery resources in its adjacent waters. Thus, the coastal State will have the right to participate, on an equal footing, in any survey on fishery resources conducted in its adjacent waters for conservation purposes, whether or not nationals of that coastal State are actually engaged in fishing the particular stocks concerned. Non-coastal States conducting the survey shall, at the request of the coastal State, make available to the coastal State the findings of their surveys and researches concerning such stocks.

2. Also, except for interim measures, no conservation measure may be adopted with respect to any stock of fish, without the consent of the coastal State whose nationals are engaged in fishing the particular stock concerned (or the majority of the coastal States in cases where there are three or more such coastal States).

3. A coastal State shall at the same time have the obligation to take, in co-operation with other States, necessary measures with a view to maintaining the productivity of fishery resources in its adjacent waters at a level that will enable an effective and rational utilization of such resources.

PROVISION IX

1. In order to assist in the development of the fishing capacity of a developing coastal State and thereby to facilitate the full enjoyment of its preferential right, there shall be international co-operation in the field of fisheries and related industries between the developing coastal State and other fishing States in concluding an agreement on the preferential right of that developing coastal State.

2. For the purpose of promoting the development of fishing industries and the domestic consumption and exports of fishery products of developing States, including land-locked States, developed non-coastal States shall co-operate with developing States with every possible means in such fields as survey of fishery resources, expansion of fishing capacity, construction of storage and processing facilities and improvements in marketing systems.

PROVISION X

Formula A

Co-operation between coastal and non-coastal States under the present regime shall be carried out, as far as possible, through regional fishery commissions. For this purpose, the States concerned shall endeavour to strengthen the existing commissions and shall co-operate in establishing new commissions whenever desirable and feasible.

Formula B

1. Fishery organizations, hereinafter called "organizations" shall exercise the functions laid down in these articles. These organizations shall be responsible either for a region or for a given species.

States whose vessels fish or are concerned with and equipped for fishing within a region shall establish a regional organization if one does not already exist. Coastal States of the region, as well as any State whose vessels fish or are concerned with and equipped for fishing in this region, shall be members of this organization.

States whose vessels fish or are concerned with and equipped for fishing for certain species such as tuna and whales shall establish a sectoral organization. This organization shall be established on a regional or world-wide basis if a competent sectoral or regional organization does not already exist. Coastal States

in whose zone this activity is exercised, as well as any State whose vessels fish or are concerned with and equipped for fishing for the species in question, shall be members of this organization.

2. The constitutions or rules of procedure of these organizations shall ensure their most effective operation. In particular, they shall provide that the measures referred to in paragraphs 4–6 are as a general rule adopted by a majority greater than a simple majority, but not necessarily unanimously, and that they are binding upon the States member of the organization.

3. Where an appropriate regional or sectoral organization has not yet been established, the coastal State concerned shall consult with other interested States if it is unable to take the action provided for under articles . . . with respect to such an organization. The decisions taken by the coastal State after such consultations shall be reviewed each year pending the establishment of the organization.

4. The organization shall determine the procedures for applying the principles of rational exploitation and conservation as well as the basic principles of the measures to be adopted for this purpose.

5. Within the limits of their competence, they shall exercise the power to adopt the regulatory measures referred to in articles . . . in any part of a region beyond the zone in which a coastal State exercises such powers in accordance with article . . .

6. The organizations shall co-ordinate the scientific research programmes of member States in order to ensure the supply of appropriate scientific information.

7. Vessels fishing in the area of competence of an organization are bound to comply with the measures adopted by such organizations.

8. Flag States parties to this Conventions shall take the necessary steps to ensure such compliance.

9. The organization shall supervise the execution of its decisions.

10. Supervision shall be based, *inter alia,* on the examination of statitics which States members of the organization are required to compile and make available, and of all other data obtained from them.

11. Within the framework of an organization, its member States may decide, at the request of a coastal State, to establish in the zone of that State international fishery monitoring machinery for the purpose of reporting breaches of the regulations adopted by that State in accordance with article . . . To this end, member States may appoint officers authorized to investigate breaches of the regulations of that State.

12. The provisions of article . . . paragraph . . . shall be applicable to breaches so established. The organization shall inform the coastal State and the flag State of the findings of any inquiries it has made. The organization shall be kept informed of the outcome of legal proceedings.

13. The activities of the organization may be supplemented, as necessary, by those of an international fisheries authority, either existing or to be set up, the function of which could be—

(a) to promote the establishment of new organizations and, where a competent organization does exist, to exercise the powers which would normally devolve upon such organizations;

(b) to encourage all types of technical assistance in respect of fisheries.

PROVISION XI

The provisions of these articles shall not affect the rights and obligations of States under existing international agreements relating to specific fisheries.

PROVISION XII

1. The provisions of these articles

—shall not prejudice the maintenance of any existing special fisheries regime existing among States members of a customs union;

—shall not preclude the establishment of a special fisheries regime among the States fishing for a particular region for that region or among States members of a customs union.

2. Where such a special regime exists, vessels of participating States fishing in the zone of another participating State shall be treated on the same footing as vessels of the latter for the purpose of article 8, paragraph 1.

[Informal Working Paper No. 5/Rev. 2*, Aug. 27, 1974]

NOTE

This document has been reviewed by the Bureau in the light of the discussion in the Committee. Since no modifications have been introduced in the text of Informal Working Paper No. 5/Rev. 1, the text remains as presented therein.

[Informal Working Paper No. 6/Rev. 8, Aug. 27, 1974]

FORMULATION OF MAIN TRENDS

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of support they have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. It does not imply either that all the proposals from which these formulations have been taken have been the subject of discussion. The inclusion of a provision in this paper, whether or not only one formula appears, does not necessarily imply that there are no other opinions concerning these questions or that all or most delegations agree on the necessity for such a provision.

All the proposals submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus, the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of taking any decisions at the present stage, in accordance with the method of work adopted by the Committee at its meeting on 3 July, once this task has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

In submitting this informal working paper, the Bureau considers it necessary to stipulate that for some delegations the establishment of an exclusive economic zone, and for others the establishment of a 12-mile territorial sea would render the notion of contiguous zone unnecessary. It should be noted that for some delegations the area contiguous to the territorial sea up to 200 miles is not a zone of the high seas. For purely methodological reasons these trends are not reflected in this paper.

ITEM 3—CONTIGUOUS ZONE

3.1 Nature and characteristics.
3.2 Limits.
Provisions I-II.
3.3 Rights of coastal States with regard to national security, customs and fiscal control, sanitation and immigration regulations.
Provision III.

ITEM 3—CONTIGUOUS ZONE

3.1 Nature and characteristics
3.2 Limits

PROVISION I

Formula A

The contiguous zone may not extend beyond 12 miles from the baseline from which the breadth of the territorial sea is measured.

Formula B

The coastal State may establish a contiguous zone extending beyond its territorial sea of 12 miles to a distance of . . . nautical miles measured from the applicable baseline.

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*This document is to be read in conjunction with Informal Working Paper No. 5/Rev. 1.

PROVISION II

Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its contiguous zone beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured.

3.3 Rights of coastal States with regard to national security, customs and fiscal control, sanitation and immigration regulations

PROVISION III

Formula A

In a zone of the high seas contiguous to its territorial sea, the coastal State may exercise the control necessary to—

(a) prevent infringment of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea;

(b) punish infringement of the above regulations committed within its territory or territorial sea.

Formula B

In an area within the economic zone, the outer limits of which do not exceed . . . nautical miles beyond the territorial sea, the coastal State may exercise the control necessary to—

(a) . . . (same as Formula A).

(b) . . . (same as Formula A).

[Informal Working Paper No. 7/Rev. 2, Aug. 27, 1974]

Formulation of Main Trends

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of support they have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. It does not imply either that all the proposals from which these formulations have been taken have been the subject of discussion. The inclusion of a provision in this paper, whether or not only one formula appears, does not necessarily imply that there are no other opinions concerning these questions or that all or most delegations agree on the necessity for such a provision.

All the proposals submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus, the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of taking any decisions at the present stage, in accordance with the method of work adopted by the Committee at its meeting on 3 July, once this task has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

In submitting this paper, the Bureau considers it necessary to stipulate that the inclusion both of provisions using the term "high seas" and provisions using the term "international sea", under item 8 (high sea), does not prejudice the position of delegations as to the use of either term.

ITEM 8—HIGH SEAS

8.1 Nature and characteristics.
Provisions I–II.

8.2 Rights and duties of States.
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Provision IV: The right to sail ships on the high seas.
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Provision VII: The duties of the Flag State in administrative, technical and social matters over ships flying its flag.
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Provision XXIV: The special needs of coastal developing countries and land-locked countries.
Provision XXV: Enforcement measures.
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8.5 Slavery, piracy and drugs.
Provision XXIX: The right to board a foreign merchant ship on the high seas.
Provision XXX: Slavery.
Provision XXXI to Provision XXXVIII: Piracy.
Provision XXXIX: Drugs.
8.6 Hot pursuit.
Provisions XL to XLI.

ITEM 24—TRANSMISSION FROM THE HIGH SEAS

Provision I:

Item 8—High Seas

8.1 Nature and characteristics

PROVISION I

Formula A

The term "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of a State.

Formula B

The waters situated beyond the outer limits of the patrimonial sea—economic zone—constitute an international area designated as high seas.

Formula C

The term "international seas" shall denote that part of the sea which is not subject to the sovereignty and jurisdiction of coastal States.

Formula D

The term "high seas" means all parts of the sea that are not included in the internal waters, the territorial sea or the exclusive economic zone of a State.

PROVISION II

Formula A

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty.

Formula B

The international sea area and its resources are, in principle, jointly owned by the people of all countries.

Formula C

The international seas shall be open to all States, whether coastal or land-locked, and their use shall be reserved for peaceful purposes.

8.2 Rights and duties of States

PROVISION III

Formula A

The coastal State shall enjoy preferential rights to exploit living resources in a sector of the sea adjacent to the zone under its sovereignty and jurisdiction, and may reserve to itself or its nationals a part of the permissible catch of such resources.

Formula B

Subject to the articles . . . (management and conservation of the living resources of the high seas), all States shall have the right to allow their nationals to engage in the exploitation of the fishery resources of the sea.

PROVISION IV

Every State, whether coastal or not, has the right to sail ships under its flag on the high seas.

PROVISION V

1. Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship; in particular, the State must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. Each State shall issue to ships to which it has granted the right to fly its flag documents to that effect.

PROVISION VI

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in these articles, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

PROVISION VII

1. Every State is obliged effectively to exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. In particular, the flag State shall, in addition to its obligations under article —, take the following action in respect of ships flying its flag:

(a) Maintain a Register of shipping containing the names and particulars of ships flying its flag;

(b) Cause each such ship, before registration and thereafter at the intervals prescribed by international regulations, to be surveyed by a qualified surveyor of ships;

(c) Ensure that each such ship is in the charge of a Master and Officers who possess appropriate qualifications, in particular in seamanship, navigation and marine engineering, and that the crew is appropriate in qualification and numbers for the type, size and equipment of the ship;

(d) Ensure that each such ship has on board adequate charts, nautical publications and navigational equipment and instruments appropriate for the safe navigation of the ship;

(e) Cause an inquiry to be held by or before a suitably qualified person or persons into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to nationals of another State or, serious damage to shipping or installations of another State, or to the marine environment;

(f) Assume jurisdiction under its municipal law over each ship and over the master, officers and crew in respect of administrative, technical and social matters concerning the ship; and

(g) Take the necessary measures to ensure that the master and officers are fully conversant with and are required to observe the appropriate applicable international regulations concerning the safety of life at sea, the prevention and control of marine pollution, the prevention of collisions and the maintenance of communications by radio.

Without prejudice to paragraph 1 of this article, the requirements of this paragraph do not apply to ships or boats which are excluded from generally accepted international regulations on account of their small size.

3. The flag State, in taking measures required under paragraph 2 above shall conform to generally accepted international regulations, procedures and practices.

4. A State which has reasonable grounds to suspect that proper jurisdiction and control has not been exercised in accordance with this Convention may report the facts to the flag State and request it to investigate the matter further. Upon receiving such a request, the flag State shall investigate the matter, taking any action necessary to remedy the situation and notify the requesting State of the action taken.

5. The flag State shall co-operate in the conduct of any inquiry held in another State into any marine casualty or incident of naviagtion causing loss of life or serious injury to nationals or damage to ships or other installations of that other State, or to the marine environment.

PROVISION VIII

The provisions of the preceding articles do not prejudice the question of ships employed on the official service of an intergovernmental organization flying the flag of the organization.

PROVISION IX

1. Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.

2. (See Provision XLII, paragraph 1 in Informal Working Paper No. 1/Rev.2*.)

PROVISION X

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

PROVISION XI

1. Every State shall take such measures for ships under its flag as are necessary to ensure safety at sea with regard *inter alia* to—

(a) the use of signals, the maintenance of communications and the prevention of collisions;

(b) the manning of ships and labour conditions for crews taking into account the applicable international labour instruments;

(c) the construction, equipment and seaworthiness of ships.

2. In taking such measures each State is required to conform to generally accepted international standards and to take any steps which may be necessary to ensure their observance.

3. A State which has reasonable grounds for suspecting that such measures have not been taken may report the facts to the flag State and request it to investigate the matter further. Upon receiving such a request, the flag State shall investigate the matter, take any action necessary to remedy the situation and notify the requesting State of the action taken.

PROVISION XII

1. In the event of a collision or of any other incident of navigation concerning a ship on the high seas, involving the penal or discriplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such persons except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.

2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or license shall alone be competent, after due legal process, to pronounce the withdrawal of such certificates, even if the holder is not a national of the State which issued them.

3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

PROVISION XIII

1. Every State shall require the master of a ship sailing under its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers—

(a) to render assistance to any person found at sea in danger of being lost;

(b) to proceed with all possible speed to the rescue of persons in distress if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(c) after a collision, to render assistance to the other ship, her crew and her passengers and, where possible, to inform the other ship of the name of his own ship, her port of registry and the nearest port at which she will call.

2. Every coastal State shall promote the establishment and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and—where circumstances so require—by way of mutual regional arrangements co-operate with neighbouring States for this purpose.

PROVISION XIV

All States shall be obliged to comply with international regulations designed to prevent, reduce or eliminate any damage or risks arising from pollution or other effects detrimental or dangerous to the ecological system of the international seas, water quality and use, living resources and human health.

PROVISION XV

1. All States shall be entitled to lay submarine cables and pipelines on the bed of the high seas.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of such cables or pipelines.

3. When laying such cables or pipelines the State in question shall pay due regard to cables or pipelines already in position on the sea-bed. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

PROVISION XVI

Every State shall take the necessary legislative measures to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable shall be a punishable offence. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

PROVISION XVII

Every State shall take the necessary legislative measures to provide that, if persons subject to its jurisdiction who are the owners of a cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline they shall bear the cost of the repairs.

PROVISION XVIII

Every State shall take the necessary legislative measures to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

8.3 Question of the freedoms of the high seas and their regulation

PROVISION XIX

Formula A

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law. It comprises, *inter alia*, both for coastal and non-coastal States—

(1) freedom of navigation;
(2) freedom of fishing;
(3) freedom to lay submarine cables and pipelines;
(4) freedom to fly over the high seas.

These freedoms, and others which are recognized by the general principles of international law, shall be exercised by all States with reasonable regard to the interests of other States in their exercise of the freedom of the high seas.

Formula B

1. The following freedoms shall be exercised on the international seas:

(1) . . . (same as in Formula A, (1))

(2) . . . (same as in Formula A, (4))

(3) . . . (same as in Formula A, (3))

(4) Freedom to emplace artificial islands and other installations permitted under international law, without prejudice to the provisions of article . . .;

(5) Freedom of fishing, subject to the conditions laid down in article . . .;

(6) Freedom of scientific research, subject to the conditions laid down in paragraph 2.

These freedoms shall be exercised by any State, with due consideration for the interests of other States in the exercise of the same freedom.

2. Scientific research in the international seas shall be open to any State and shall be promoted and facilitated under forms of co-operation and assistance which permit the participation of all States, irrespective of their level of development or of whether they are coastal or land-locked.

. . . (Complementary provisions on scientific research.)

Formula C

Uses of the international sea area shall not prejudice the legitimate interests of other States and the common interests of all States.

8.4 Management and conservation of living resources

PROVISION XX

The coastal State has a special interest in maintaining the productivity of the living resources of the sea in an area adjacent to the patrimonial sea.

PROVISION XXI

Formula A

1. Fishing in the international sea area shall be properly regulated to prohibit indiscriminate fishing and other violations of rules and regulations for the conservation of fishery resources.

2. Pending the establishment of a unified international fishery organization, States of a given sea area may set up a regional committee to work out appropriate rules and regulations for the regulation of fishing and the conservation of marine living resources in the international sea area. Fishing vessels of States of other regions may enter the said region for fishing activities provided they comply with the relevant rules and regulations of the region.

Formula B

1. Fishing and hunting and the international seas shall be subject to regulations of a world-wide and regional nature.

2. The aforesaid activities shall be carried out by techniques and methods which do not jeopardize adequate conservation of the renewable resources of the international seas.

Formula C

States shall co-operate with each other in the exploitation and conservation of living resources in areas beyond the economic zone of coastal States. States exploiting identical resources, or different resources located in the same area, shall enter into fisheries management agreements, and establish appropriate multilateral fisheries organizations, for the purpose of maintaining these resources. If such a body cannot be constituted among the concerned States, they may ask for the assistance of the Food and Agriculture Organization of the United Nations in establishing an appropriate regional or international regulatory body.

States, acting individually and through regional and international fisheries organizations, have the duty to apply the following conservation measures for such living resources:

(A) Allowable catch and other conservation measures shall be established which are designed, on the best evidence available to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, taking into account relevant environmental and economic factors, and any generally agreed global and regional minimum standards;

(B) Such measures shall take into account effects on species associated with or dependent upon harvested species and at a minimum, shall be designed to maintain or restore populations of such associated or dependent species above levels at which they may become threatened with extinction;

(C) For this purpose, scientific information, catch and fishing effort statistics, and other relevant data shall be contributed and exchanged on a regular basis;

(D) Conservation measures and their implementation shall not discriminate in form or fact against any fisherman. Conservation measures shall remain in force pending the settlement, in accordance with the provisions of chapter—, of any disagreement as to their validity.

With respect to anadromous species and highly migratory species, the provisions of article—and article—, respectively, shall apply.

PROVISION XXII

Formula A

In respect of fisheries of highly migratory habits outside the limits of the exclusive fishery zone, regulations for their exploration, exploitation, conservation and development shall be made by the authority designated for the purpose by the Conference on the Law of the Sea.

Formula B

(See Provision XXVIII, Formula A of Informal Working Paper No. 4/Rev.1.)

Formula C

(See Provision XXVIII, Formula B of Informal Working Paper No. 4/Rev.1.)

PROVISION XXIII

With regard to the living resources of an area of the sea situated beyond the limits of the zones of sovereignty and jurisdiction of two or more States, which breed, feed and live by reason of the resources of that area, the States concerned may agree among themselves on appropriate regulations for the exploration, conservation and exploitation of such resources.

PROVISION XXIV

1. Regulations adopted to regulate fishing and hunting in the international seas shall ensure the conservation and rational utilization of living resources and the equitable participation of all States in their exploitation, with due regard to the special needs of developing coastal countries and land-locked countries.

2. Such regulations shall establish conditions and methods of fishing and hunting which prevent the indiscriminate exploitation of species and avert the danger of their extinction.

PROVISION XXV

Formula A

Where a State has good reason to believe that vessels of the flag of another State have violated fishing and hunting regulations applicable to the international seas, the former State may request the flag State to take the necessary steps to punish those responsible.

Formula B

(See Provision XXX, Formula B of Informal Working Paper No. 4/Rev. 1.)

PROVISION XXVI

Formula A

The exploitation of anadromous species shall be regulated by agreement among interested States or by international arrangements through the appropriate intergovernmental fisheries organization.

All interested States shall have an equal right to participate in such arrangements and organizations. Any arrangement shall take into account the interest of the State of origin and the interests of other coastal States.

Formula B

The right of exploitation of stocks of anadromous species shall be exercised only—

(i) within waters under the jurisdiction of the State of origin;

(ii) within waters under the jurisdiction of other coastal States, subject to such conditions and regulations as shall be agreed between such coastal State and the State of origin, taking into account the special role of the State of origin in the conservation of the species.

Formula C

(See Provision XXVI, Formula D in Informal Working Paper No. 4/Rev. 1).

PROVISION XXVII

(See Provision XXVI, Formula B in Informal Working Paper No. 4/Rev. 1).

PROVISION XXVIII

(See Provision XXIX of Informal Working Paper No. 4/Rev. 1.)

8.5 *Slavery, piracy and drugs*

PROVISION XXIX

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters a foreign merchant ship on the high seas is not justified in boarding her unless there is reasonable ground for suspecting—

(a) that the ship is engaged in piracy; or

(b) that the ship is engaged in the slave trade; or

(c) that, though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

2. In the cases provided for in subparagraphs (a), (b) and (c) above, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.

3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

PROVISION XXX

Every State shall adopt effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag, and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall, *ipso facto*, be free.

PROVISION XXXI

All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

PROVISION XXXII

Piracy consists of any of the following acts:

(1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(a) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(b) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(3) Any act of inciting or of intentionally facilitating an act described in subparagraph 1 or subparagraph 2 of this article.

PROVISION XXXIII

The acts of piracy, as defined in article . . . , committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.

PROVISION XXXIV

A ship or aircraft is considered a pirate ship or aircraft it it is intended byjthe persons in dominant control to be used for the purpose of committing one of the acts referred to in article . . . . The same applies ifjthe ship or aircrart has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

PROVISION XXXV

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

PROVISION XXXVI

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship taken by piracy and under the control of pirates, and arrest the persons and seize the property on board.

The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

PROVISION XXXVII

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft, for any loss or damage caused by the seizure.

PROVISION XXXVIII

A seizure on account of piracy may only be carried out by warships or military aircraft, or other ships or aircraft on government service authorized to that effect.

PROVISION XXXIX

Formula A

1. All States shall co-operate in the suppression of illicit traffic in narcotic drugs by ships on the high seas, contrary to international conventions.

2. Any State which has reasonable grounds for believing that a vessel is engaged in illicit traffic in narcotic drugs may, whatever the nationality of the vessel but provided that its tonnage is less than 500 tons, seize the illicit cargo. The State which carried out this seizure shall inform the State of nationality of the vessel in order that the latter State may institute proceedings against those responsible for the illicit traffic.

3. Any State which has reasonable grounds for believing that a vessel flying its flag is engaged in illicit traffic in narcotic drugs, may request the co-operation of another State to put an end to this.

Formula B

. . . (Same as formula A, except instead of narcotic drugs insert "narcotic and psychotropic drugs".)

8.6 Hot pursuit

PROVISION XL

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters or the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article . .. , the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own country or of a third State.

3. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship are within the limits of the territorial sea, or as the case may be within the contiguous zone. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

4. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft on government service specially authorized to that effect.

5. Where hot pursuit is effected by an aircraft—

(a) The provisions of paragraphs 1 to 3 of this article shall apply *mutatis mutandis*;

(b) The aircraft giving the order to stop must itself actively pursue the ship until a ship or aircraft of the coastal State, summoned by the aircraft,

arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest on the high seas that the ship was merely sighted by the aircraft as an offender or susepcted offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.

6. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an inquiry before the competent authorities may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the high seas, if the circumstances rendered this necessary.

7. Where a ship has been stopped or arrested on the ihgh seas in circumstances which do not justify the exercise of the rights of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

PROVISION XLI

Formula A

The right of hot pursuit shall apply, *mutatis mutandis*, to violations in the economic zone or on the continental shelf, including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with this Convention to the economic zone or the continental shelf, including such safety zones.

Formula B

The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters or the territorial sea or *the economic zone* of the pursuing State, and may only be continued outside the territorial sea or *the economic zone* if the pursuit has not been interrupted.

The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea or *the economic zone* of its own country or the territorial sea or *the economic zone* of a third State.

24 Transmission from the high seas

PROVISION I

1. All States shall co-operate in the repression of unauthorized broadcasting from the high seas.

2. "Unauthorized broadcasting" consists of the transmission of sound radio or television broadcasts from a ship or installation on the high seas intended for reception by the general public contrary to international regulations, but excluding the transmission of distress calls.

3. Any person engaged in unauthorized broadcasting from the high seas may be prosecuted before the Court of the flag State of the vessel, the place of registry of the installation, the State of which the person is a national, any place where the transmissions can be received or any State where authorized radio communication is suffering interference.

4. On the high seas, any of the States having jurisdiction in accordance with paragraph 3 above may, in conformity with article . . . below, arrest any person, or ship engaged in unauthorized broadcasting and seize the broadcasting apparatus.

[Informal Working Paper No. 8/Rev. 2, Aug. 24, 1974]

Formulation of Main Trends

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of support they have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. It does not imply either that all the proposals from which these formulations have been taken have been the subject of discussion. The inclusion of a provision in this paper, whether or

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Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

ITEM 16—ARCHIPELAGOS

Provision I: Scope.
Provision II: Definition.
Provisions III–VIII: Straight baselines.
Provisions IX–XII: Archipelagic waters.
Provision XIII: Passage through archipelagic waters.
Provisions XIV–XVIII: Sealanes and traffic separation schemes.
Provision XIX: Saving clause.

ITEM 16—ARCHIPELAGOS

PROVISION I

Formula A

These articles apply only to archipelagic States.

Formula B

A coastal State with one or more off-lying archipelagos, as defined in provision II, formula A, para. 2, which form an integral part of its territory, shall have the right to apply the provisions of articles . . . to such archipelagos upon the making of a declaration to that effect.

Formula C

The method applied to archipelagic States for the drawing of baselines shall also apply to archipelagos that form part of a State, without entailing any change in the natural regime of the waters of such archipelagos or of their territorial sea.

PROVISION II

Formula A

1. An archipelagic State is a State constituted wholly by one or more archipelagos and may include other islands.

2. For the purpose of these articles an archipelago is a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic end political entity, or which historically have been regarded as such.

Formula B

1. On ratifying or acceding to this Convention, a State may declare itself to be an archipelagic State where—

(a) the land territory of the State is entirely composed of three or more islands; and

(b) it is possible to draw a perimeter, made up of a series of lines or straight baselines, around the outermost points of the outermost islands in such a way that—

(i) no territory belonging to another State lies within the primeter,

(ii) no baseline is longer than . . . nautical miles, and

(iii) the ratio of the area of the sea to the area of land territory inside the perimeter does not exceed . . . provided that any straight baseline between two points on the same island shall be drawn in conformity with articles . . . of the Convention (on straight baselines).

2. A declaration under paragraph 1 above shall be accompanied by a chart showing the perimeter and a statement certifying the length of each baseline and the ratio of land to sea within the perimeter.

3. Where it is possible to include within a perimeter drawn in conformity with paragraph 1 above only some of the islands belonging to a State, a declaration may be made in respect of those islands. The provisions of this Convention shall apply to the remaining islands in the same way as they apply to the islands of a State which is not an archipelagic State and references in this article to an archipelagic State shall be construed accordingly.

PROVISION III

Formula A

An archipelagic State may employ the method of straight baselines joining the outermost points of the outermost islands and drying reefs of the archipelago in drawing the baselines from which the extent of the territorial sea, economic zone and other special jurisdictions are to be measured.

Formula B

. . . (same as formula A) . . . or may employ as a baseline any non-navigable continuous reefs or shoals lying between such points.

Formula C

In the case of an archipelagic State, or of an archipelago that forms part of a State, the baselines from which the adjacent sea over which the State exercises its sovereignty and jurisdiction shall be measured may be drawn by straight lines which join the outermost points of the outermost islands and drying reefs of the archipelago.

PROVISION IV

The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.

PROVISION V

Baselines shall not be drawn to and from low-tide elevations unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.

PROVISION VI

The system of straight baselines shall not be applied by an archipelagic State in such a manner as to cut off the territorial sea of another State as determined under article . . . of chapter . . . of this Convention.

PROVISION VII

An archipelagic State shall clearly indicate its straight baselines on charts to which due publicity shall be given.

PROVISION VIII

An archipelagic State may draw baselines in conformity with articles . . . (bays) and . . . (river mouths) of this Convention for the purpose of delimiting internal waters.

PROVISION IX

Formula A

The waters enclosed by the baselines, which waters are referred to in these articles as archipelagic waters, regardless of their depth or distance from the coast, belong to, and are subject to the sovereignty of, the archipelagic State to which they appertain.

Formula B

(Same as Formula A above) . . . this sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

Formula C

In such cases, the waters enclosed by the baselines shall be considered internal waters, though vessels of any flag may sail in them in accordance with the provisions laid down by the archipelagic State.

PROVISION X

The sovereignty and rights of an archipelagic State extend to the air space over its archipelagic waters as well as to the water column and the sea-bed and subsoil thereof, and to all of the resources contained therein.

PROVISION XI

Formula A

If the drawing of such baselines encloses a part of the sea which has traditionally been used by an immediately adjacent neighboring State for direct communication, including the laying of submarine cables and pipelines, between one part of its national territory and another part of such territory, the continued right of such communication shall be recognized and guaranteed by the archipelagic State.

Formula B

[Same as formula A above] for direct access and all forms of communications, including the laying of submarine cables and pipelines, between one part of its national territory and another part of such territory, such rights of direct access and communications shall continue to be recognized and guaranteed by the archipelagic State.

Formula C

In addition to the right of passage through the sealanes designated for international navigation, an archipelatic State shall recognize, for the sole benefit of such of its neighboruing States as are enclosed or partly enclosed by its archipelagic waters, a right of innocent passage through these waters for the purpose of gaining access to and from any part of the high seas by the shortest and most convenient routes.

To this effect, an archipelagic State shall enter into arrangements with any such neighbouring States at the request of the latter.

PROVISION XII

Formula A

Where a declaration made in accordance with article . . . has the effect of enclosing as archipelagic waters areas which previously had been considered as part of the high seas, the archipelagic State shall enter into consultation, at the request of any other State, with a view to safeguarding the rights and interests of such other State regarding any existing uses of the sea in such areas, except the navigational uses provided for in article . . . , but including, *inter alia*, fisheries, submarine cables and pipelines.

Formula B

In any situation where the archipelagic waters, or territorial waters measured therefrom, of an archipelagic State include areas which previously had been considered as high seas, that archipelagic State, in the exercise of its sovereignty over such areas, shall give special consideration to the interests and needs of its neighbouring States with regard to the exploitation of living resources in these areas, and, to this effect, shall enter into an agreement with any neighbouring State, at the request of the latter, either by regional or bilateral arrangements, with a view to prescribing modalities entitling the nationals of such neighbouring State to engage and take part on an equal footing with its nationals and, where geographical circumstances so permit, on the basis of reciprocity, in the exploitation of living resources therein.

PROVISION XIII

Formula A

Subject to the provisions of provisions XIV to XVIII, ships of all States shall enjoy the right of innocent passage through archipelagic waters.

Formula B

1. Where parts of archipelagic waters have before the date of ratification of this Convention been used as routes for international navigation between one part of the high seas and another part of the high seas or the territorial sea of another State, the provisions of articles . . . of this Convention apply to those routes (as well as to those parts of the territorial sea of the archipelagic State adjacent thereto) as if they were straits. A declaration made under paragraph 1 of this article shall be accompanied by a list of such waters which indicates all the routes used for international navigation, as well as any traffic separation schemes in

force in such waters in conformity with articles . . . of this Convention. Such routes may be modified or new routes created only in conformity with articles . . . of this Convention.

2. Within archipelagic waters, other than those referred to in paragraph 1 the provisions of articles . . . (innocent passage) apply.

Formula C

All ships shall enjoy equal freedom of passage in archipelagic straits, the approaches thereto, and those areas in the archipelagic waters of the archipelagic State along which normally lie the shortest sealanes used for international navigation between one part and another part of the high seas.

PROVISION XIV

1. An archipelagic State may designate sealanes suitable for the safe and expeditious passage of foreign ships through its archipelagic waters, and may restrict the passage of such ships, or any types or classes of such ships, through those waters to any such sealanes.

2. An archipelagic State may, from time to time, after giving due publicity thereto, substitute other sealanes for any sealanes previously designated by it under the provisions of this article.

3. An archipelagic State which designates sealanes under the provisions of this article may also prescribe traffic separation schemes for the passage of such ships through those sealanes.

4. In the designation of sealanes and the prescription of traffic separation schemes under the provisions of this article an archipelagic State shall, *inter alia*, take into account—

(a) the recommendations or technical advice of competent international organizations;

(b) any channels customarily used for international navigation;

(c) the special characteristics of particular channels; and

(d) the special characteristics of particular ships.

5. An archipelagic State shall clearly demarcate all sealanes designated by it under the provisions of this article and indicate them on charts on which due publicity shall be given.

PROVISION XV

1. An archipelagic State may make laws and regulations, not inconsistent with the provisions of these articles and having regard to other applicable rules of international law, relating to passage through its archipelagic waters, or the sealanes designated under the provisions of this article, which laws and regulations may be in respect of all or any of the following:

(a) The safety of navigation and the regulation of marine traffic;

(b) The installation, utilization and protection of navigational aids and facilities;

(c) The installation, utilization and protection of facilities or installations for the exploration and exploitation of the marine resources, including the resources of the sea-bed and subsoil, of the archipelagic waters;

(d) The protection of submarine or aerial cables and pipelines;

(e) The conservation of the living resources of the sea;

(f) The preservation of the environment of the archipelagic State, and the prevention of pollution thereto;

(g) Research in the marine environment, and hydrographic surveys;

(h) The prevention of infringement of the fisheries regulations of the archipelagic State, including *inter alia* those relating to the stowage of gear;

(i) The prevention of infringement of the customs, fiscal, immigration, quarantine, sanitary and phytosanitary regulations of the archipelagic State; and

(j) The preservation of the peace, good order and security of the archipelagic State.

2. The archipelagic State shall give due publicity to all laws and regulations made by it under the provisions of this article.

PROVISION XVI

Formula A

Foreign ships exercising the right of innocent passage through the archipelagic waters or the sealanes designated under the provisions of this article shall comply with all laws and regulations made by the archipelagic State under the provisions of this article.

Formula B

Foreign ships exercising the right of free passage through the archipelagic waters or the sealanes designated under the provisions of this article shall comply with the relevant laws and regulations made by the archipelagic State under the provisions of this article.

PROVISION XVII

Formula A

If any foreign warship does not comply with the laws and regulations of the archipelagic State concerning its passage through the archipelagic waters or the sealanes designated under the provisions of this article and disregards any request for compliance which is made to it, the archipelagic State may suspend the passage of such warship and require it to leave the archipelagic waters by such safe and expeditious route as may be designated by the archipelagic State.

Formula B

All ships passing through the straits and waters of archipelagic States shall not in any way endanger the security of such States, their territorial integrity or political independence. Warships passing through such straits and waters may not engage in any exercises or gunfire, use any form of weapon, launch or take on aircraft, carry out hydrographic surveys or engage in any similar activity unrelated to their passage. All ships shall inform the archipelagic State of any damage, unforeseen stoppage, or of any action rendered necessary by *force majeure*.

PROVISION XVIII

Formula A

Subject to the provisions of paragraph . . . of this article, an archipelagic State may not suspend the innocent passage of foreign ships through sealanes designated by it under the provisions of this article, except when essential for the protection of its security, after giving due publicity thereto and substituting other sealanes for those through which innocent passage has been suspended.

Formula B

An archipelagic State may not interrupt or suspend the transit of ships through its straits or archipelagic waters, or take any action which may impede their passage.

PROVISION XIX

The foregoing provisions shall not affect the established regime concerning coastlines deeply indented and cut into and to the waters enclosed by a fringe of islands along the coast, as expressed in article . . .

[Informal Working Paper No. 8/Rev.2/Corr.1, Aug. 26, 1974]

[Chinese, English, French and Russian only]

CORRIGENDUM

Page 7, provision XIII, formula C

First line: *For* enjoy equal freedom *read* enjoy equally freedom

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[Informal Working Paper No. 9/Rev.2, Aug. 27, 1974]

[Original: English]

FORMULATION OF MAIN TRENDS

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of the current session of the Conference. It does not imply either that all the proposals from which these formulations have been taken have been the subject of discussion. The inclusion of a provision in this paper, whether or not only

one formula appears, does not necessarily imply that there are no other opinions concerning these questions or that all or most delegations agree on the necessity for such a provision.

All the proposals submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus, the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of making any decisions at the present stage, in accordance with the method of work adopted by the Committee at its meeting on 3 July, once this task has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

It should be noted that other proposals relating to items 9.2.3 and 9.2.4 are under consideration by the First Committee.

ITEM 9—LAND-LOCKED COUNTRIES

Provision I: Definitions.
9.1 General principles of the law of the sea concerning the land-locked countries.
Provision II: General principles.
9.2 Rights and interests of land-locked countries.
9.2.1 Free access to and from the sea: freedom of transit, means and facilities for transport and communications.
Provision III: Free access to and from the sea.
Provision IV: Relation to previous agreements.
Provision V: Most-favoured-nation clause.
Provision VI: Freedom of transit.
9.2.2 Equality of treatment in the ports of transit States.
Provision VII: Use of maritime port.
Provision VIII: Customs duties and other charges.
Provision IX: Free zone or other facilities.
Provision X: Appointment of customs officials.
Provision XI: Transportation, handling and storage of goods in transit.
Provision XII: Improvement of the means of transport and communications.
Provision XIII: Delays or difficulties in traffic in transit.
9.2.3 Free access to the international sea-bed area beyond national jurisdiction.
Provision XIV: Access to and from the sea-bed area.
9.2.4 Participation in the international régime, including the machinery and the equitable sharing in the benefits of the area.
Provision XV: Representation.
Provision XVI: Participation in decision-making.
9.3 Particular interests and needs of developing land-locked countries in the international régime.
9.4 Rights and interests of land-locked countries in regard to living resources of the sea.
Provision XVII: Living resources.
Provision XVIII: Transfer of rights and technical and financial assistance.

Item 9—Land-Locked Countries

PROVISION I

Definitions

For the purpose of this Convention:

"Land-locked State" means any State which has no seacoast;

The term "transit State" means any State, with or without a seacoast, situated between a land-locked State and the sea, through whose territory the land-locked State shall have access to and from the sea;

The term "traffic in transit" means transit of persons, baggage, goods and means of transport across the territory of one or more transit States, when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk or change in the mode of transport is only a portion of a complete journey which begins or terminates within the territory of the land-locked State.

9.1 General principles of the law of the sea concerning the land-locked countries

PROVISION II

The existence and the nature of the right of land-locked States to free access to and from the sea derive from the application of the principles of the freedom of the sea and the designation of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, as well as the resources of that area, as the common heritage of mankind.

9.2 Rights and interests of land-locked countries

Same as provision VII, formula D, paragraph 2 of Informal Working Paper No. 4/Rev.2.

9.2.1 Free access to and from the sea: freedom of transit, means and facilities for transport and communications

PROVISION III

Formula T

The right of land-locked States to free access to and from the sea is one of the basic principles of the law of the sea and forms an integral part of the principles of international law.

In order to enjoy the freedom of the seas and to participate in the exploration and exploitation of the sea-bed and its resources on equal terms with coastal States, land-locked States, irrespective of the origin and characteristics of their land-locked conditions, shall have the right of free access to and from the sea in accordance with the provisions of this Convention.

The right of free access to and from the sea of land-locked States shall be the concern of the international community as a whole and the exercise of such right shall not depend exclusively on the transit States.

Since free transit of land-locked States forms part of their right of free access to and from the sea which belongs to them in view of their special geographical position, reciprocity shall not be a condition of free transit of land-locked States required by transit States but may be agreed between the parties concerned.

Formula B

Each land-locked State shall enjoy free access to and from the sea.

Neighbouring transit States shall accord, on a basis of reciprocity, free transit through their territories of persons and goods of land-locked States by all possible means of transportation and communication. The modalities of the exercise of free transit shall be settled between the land-locked States and the neighbouring transit States by means of bilateral or regional agreements.

Land-locked States shall have the freedom to use one or more of the alternative routes or means of transport, as agreed with the transit States concerned, for purposes of access to and from the sea.

PROVISION IV

Formula A

The provisions of this Convention which govern the right of free access of land-locked States to and from the sea shall not abrogate existing special agreements between two or more States concerning the matters which are regulated in this Convention, nor shall they raise an obstacle as regards the conclusion of such agreements in the future.

In case such existing agreements provide less favourable conditions than those contained in this Convention, the States concerned undertake that they shall bring them in accord with the present provisions at the earliest occasion.

The provisions contained in the preceding paragraph shall not affect existing bilateral or multilateral agreements relating to air transport.

Formula B

Same as formula A, but with the deletion of the third paragraph thereof.

PROVISION V

Provisions of this Convention, as well as special agreements which regulate the exercise of the right of free access to and from the sea and the area of the sea-bed, establishing rights and facilities on account of the special geographical position of land-locked States, are excluded from the application of the most-favoured-nation clause.

PROVISION VI

Formula A

Transit States shall accord free and unrestricted transit for traffic in transit of land-locked States, without discrimination among them to and from the sea by all means of transport and communication, in accordance with the provisions of this Convention.

Formula B

In order to have access to and from the international sea area for trade and other peaceful purposes, land-locked States have the right to pass through the territory, territorial sea and other waters of adjacent coastal States. Coastal

States and adjacent land-locked States shall, through consultations on the basis of equality and mutual respect for sovereignty, conclude bilateral or regional agreements on the relevant matters.

Formula C

Same as provision III, formula B, second paragraph.

9.2.2 Equality of treatment in the ports of transit States

PROVISION VII

Formula A

Vessels flying the flag of a land-locked State shall have the right to use maritime ports.

Vessels of land-locked States are entitled to the most-favoured treatment and shall under no circumstances receive a treatment less favourable than that accorded to vessels of coastal States as regards access to and exit from the maritime ports.

The use of these ports, facilities, installations and equipments of any kind shall be provided under the same conditions as for coastal States.

Formula B

For the purposes provided for in this article, coastal States shall guarantee neighbouring land-locked States free passage through their territories, as well as equal treatment as regards entry into and use of ports, in accordance with internal legislation and any relevant agreements they may conclude.

PROVISION VIII

Traffic in transit shall not be subject to any customs duties, taxes or other charges except charges levied for specific services rendered in connection with such traffic.

If the port installation and equipment or the means of transport and communication or both existing in a transit State are primarily used by one or more land-locked States, tariffs, fees or other charges for services rendered shall be subject to agreement between the States concerned.

Means of transport in transit used by the land-locked State shall not be subject to taxes, tariffs or charges higher than those levied for the use of means of transport of the transit State.

PROVISION IX

For convenience of traffic in transit, free zones and/or other facilities may be provided at the ports of entry and exit in the transit States, by agreement between those States and the land-locked States.

Such zones shall be exempted from the customs regulations of the coastal States. They remain, however, subject to the jurisdiction of those States with regard to police and public health regulations.

PROVISION X

Land-locked States shall have the right to appoint customs officials of their own in the ports of transit or free zones, empowered in accordance with the practice of States, to arrange the berthing of vessels whose cargo is bound for or coming from the land-locked State and to make arrangements for and supervise loading and unloading operations for such vessels as well as documentation and other necessary services for the speedy and smooth movement of traffic in transit.

PROVISION XI

Transit States shall provide adequate means of transport, storage and handling facilities at the points of entry and exit, and at intermediate stages, for the smooth movement of traffic in transit.

PROVISION XII

When means of transport and communication in the transit States are insufficient to give effect to the rights of land-locked States of free access to and from the sea or when the aforesaid means of transport and communication or the port installations and equipment are inadequate or may be improved in any respect, the land-locked States shall have the right to construct, modify or improve them in agreement with the transit State or States concerned.

PROVISION XIII

Except in cases of *force majeure* all measures shall be taken by transit States to avoid delays in or restrictions on traffic in transit.

Should delays or other difficulties occur in traffic in transit, the competent authorities of the transit State or States and of land-locked States shall co-operate towards their expeditious elimination.

9.2.3. Free access to the international sea-bed area beyond national jurisdiction

PROVISION XIV

Land-locked States shall have the right of free access to and from the area of the sea-bed in order to enable them to participate in the exploration and exploitation of the area and its resources and to derive benefits therefrom in accordance with the provisions of this Convention.

For this purpose the land-locked States shall have the right to use all means and facilities provided for in this Convention with regard to traffic in transit.

9.2.4. Participation in the international regime, including the machinery and the equitable sharing in the benefits of the area

PROVISION XV

In any organ of the international sea-bed machinery in which not all member States will be represented, in particular in its Council, there shall be an adequate and proportionate number of land-locked States, both developing and developed.

PROVISION XVI

In any organ of the machinery, decisions on questions of substance shall be made with due regard to the special needs and problems of land-locked States.

On questions of substance which affect the interests of land-locked States, decisions shall be made with their participation.

9.3 Particular interests and needs of developing land-locked countries in the international regime

9.4 Rights and interests of land-locked countries in regard to living resources of the sea

PROVISION XVII

Formula A

Land-locked . . . States shall have the right to participate in the exploration and exploitation of the living resources of the . . . zone of neighboring coastal States on an equal and non-discriminatory basis. For the purpose of facilitating the orderly development and the rational exploitation of the living resources of the particular zones, the States concerned may decide upon appropriate arrangements to regulate the exploitation of the resources in those zones.

Formula B

Nationals of a developing land-locked State shall enjoy the privilege of fishing in the neighbouring area of the exclusive economic zone of the adjoining coastal State on the basis of equality with the nationals of that State. The modalities of the enjoyment of this privilege and the area to which they relate shall be settled by agreement between the coastal State and the land-locked State concerned. This privilege will be available to the nationals of the land-locked State concerned and cannot be transferred to third parties by lease or license, by establishing joint collaboration ventures, or by any other arrangement. Jurisdiction and control over the conservation, development and management of the resources of the specified area shall lie with the coastal State in whose zone that area is located.

Formula C

In any region where there are [land-locked] States, the nationals of such States shall have the right to exploit the renewable resources within the economic zones or patrimonial seas of the region for the purpose of fostering the development of their fishing industry and satisfying the nutritional needs of such populations.

Formula D

Coastal States shall, through bilateral or subregional agreements, as the case may require, in which the interests of all parties are given fair consideration, accord to States having no seacoast which are their neighbours or which belong to the same subregion preferential treatment over third States with regard to fishing rights in that area of their territorial sea which is not reserved exclusively

for their nationals. Such preferential treatment shall be reserved for national enterprises of the States having no seacoast which operate in the area exclusively which ships flying the flag of those States and whose catch is intended for domestic or industrial consumption in the said States, or for national enterprises of the States having no seacoast which are associated with national enterprises of the coastal States.

Formula B

. . . agreement shall be reached with States having no seacoast on an equitable régime for the exercise in the maritime area of fishing rights which shall be preferential in relation to third States. The said preferential rights shall be granted provided that the enterprises of the State which wishes to exploit the resources in question are effectively controlled by capital and nationals of that State and that the ships which operate in the area fly the flag of that State.

PROVISION XVIII

Land-locked . . . States shall not transfer their rights under . . . provision VII, formula D, paragraphs 1 and 2 of Informal Working Paper No. 4/Rev. 2 to third States, except when otherwise agreed upon by the States concerned.

The provisions of paragraph 1 shall, however, not preclude land-locked . . . States from obtaining technical or financial assistance from third States, or appropriate international organizations, for the purpose of enabling them to develop viable industries of their own.

[Informal Working Paper No. 10/Rev. 2, Aug. 27, 1974]

[Original: English]

Formulation of Main Trends

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of support that have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. It does not imply either that all the proposals from which these formulations have been taken have been the subject of discussion. The inclusion of a provision in this paper, whether or not only one formula appears, does not necessarily imply that there are no other opinions concerning these questions or that all or most delegations agree on the necessity for such a provision.

All the proposals submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus, the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of taking any decisions at the present stage, in accordance with the method of work adopted by the Committee at its meeting on 3 July, once this task has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

ITEM 10—RIGHTS AND INTERESTS OF SHELF-LOCKED STATES AND STATES WITH NARROW SHELVES OR SHORT COASTLINES

Provision I–II: Definitions.
10.1 International regime.
10.2 Fisheries.
Provision III: Participation in the living resources of the economic zone.
Provision IV: Transfer of rights.
Provision V: Technical and financial assistance.
10.3 Special interests and needs of developing shelf-locked States and States with narrow shelves or short coastlines.
10.4 Free access to and from the high seas.

Item 10—Rights and Interests of Shelf-Locked States and States With Narrow Shelves or Short Coastlines

Definitions:

PROVISION I

Formula A

For the purposes of these articles: "geographically disadvantaged States" means developing States which are . . . or for geographical, biological or ecological reasons—

(i) derive no substantial economic advantage from establishing an economic zone or patrimonial sea, or a territorial sea beyond 12 miles; or

(ii) are adversely affected in their economies by the establishment of economic zones or patrimonial seas or territorial seas beyond 12 miles by other States; or

(iii) have short coastlines and cannot extend uniformly their national jurisdiction.

Formula B

"Geographically disadvantaged States" means land-locked States and coastal States which, for geographical reasons, are unable to declare a . . . zone pursuant to . . ., or do not declare such a . . . zone because it would not be economically meaningful;

PROVISION II

"Neighbouring coastal State" means a coastal State of a region situated within reasonable proximity to a disadvantaged State."

10.1 International régime

10.2 Fisheries

PROVISION III

Formula A

. . . geographically disadvantaged States shall have the right to participate in the exploration and exploitation of the living resources of the . . . zone of neighbouring coastal States on an equal and non-discriminatory basis. For the purpose of facilitating the orderly development and the rational exploitation of the living resources of the particular zones, the States concerned may decide upon arpropriate arrangements to regulate the exploitation of the resources in those zones.

Formula B

. . . geographically disadvantaged States shall have the right to explore and exploit the living resources of the exclusive economic zones of neighbouring coastal States, subject to appropriate bilateral or regional arrangements or agreements with such coastal States.

Formula C

In any region where there are geographically disadvantaged States, the nationals of such States shall have the right to exploit the renewable resources within the economic zones or patrimonial seas or territorial seas beyond 12 miles of the region for the purpose of fostering the development of their fishing industry and satisfying the nutritional needs of such populations.

The States of the region shall co-operate to the fullest extent in order to secure the enjoyment of this right.

Formula D

In regions or subregions in which certain coastal States, owing to geographical or ecological factors, are unable, before all their coastlines, to extend the limits of their sovereignty and jurisdiction up to distances equal to those adopted by other coastal States in the same region or subregion, the former States shall enjoy, in the seas of the latter States, a preferential regime vis-a-vis third States in matters relating to the exploitation of renewable resources, the said regime to be determined by regional, subregional or bilateral agreements taking into account the interests of the respective States.

PROVISION IV

. . . other geographically disadvantaged States shall not transfer their rights under articles . . . to third States, except when otherwise agreed upon by the States concerned.

PROVISION V

The provisions of provision IV shall, however, not preclude . . . geographically disadvantaged States from obtaining technical or financial assistance from third States, or appropriate international organizations, for the purpose of enabling them to develop viable industries of their own.

10.3 Special interests and needs of developing shelf-locked States and States with narrow shelves or short coastlines

Same as Provision VII, Formula D, paragraph 2 of Informal Working Paper No. 4/Rev. 2.

10.4 Free access to and from the high seas

[Informal Working Paper No. 11/Rev. 2, Aug. 27, 1974]

[Original: English]

Formulation of Main Trends

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of support they have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. It does not imply either that all the proposals from which these formulations have been taken have been the subject of discussion. The inclusion of a provision in this paper, whether or not only one formula appears, does not necessarily imply that there are no other opinions concerning these questions or that all or most delegations agree on the necessity for such a provision.

All the proposals submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus, the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of taking any decisions at the present stage, in accordance with the method of work adopted by the Committee at its meeting on 3 July, once this task has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

For purely methodological reasons the position of those delegations for whom global criteria should continue to apply is not reflected as a trend in this paper. For the same reasons the position of those delegations for whom the area adjacent to the territorial sea will become an exclusive economic zone or partimonial sea and shall not be considered as high seas, is not reflected as a trend in this paper.

Item 17.—Enclosed and Semi-Enclosed Seas

PROVISION I

For the purpose of these articles—

(a) the term "enclosed sea" shall refer to a small body of inland waters surrounded by two or more States which is connected to the open seas by a narrow inlet.

(b) the term "semi-enclosed sea" shall refer to a sea basin located along the margins of the main ocean basins and enclosed by the land territories of two or more States.

PROVISION II

In regions with special characteristics, such as semi-enclosed or enclosed seas, where it is impossible for coastal States to fix the maximum breadth of their territorial seas, the breadth of the said seas shall be determined by agreement between the coastal States of the same region.

PROVISION III

Formula A

The general rules set out in chapters . . . (chapters relating to territorial sea and economic zone) of this Convention shall be applied, in enclosed and semi-enclosed seas, in a manner consistent with equity.

States bordering enclosed and semi-enclosed seas may hold consultations among themselves with a view to determining the manner and method of application, appropriate for their region, for the purposes of this article.

Formula B

The general rules set out in this Convention shall apply to an enclosed or semi-enclosed sea in a manner consistent with the special characteristics of these seas and the needs and interests of their coastal States.

PROVISION IV

Management, conservation, exploration and exploitation of marine living resources in semi-enclosed seas beyond the territorial sea shall be undertaken by the riparian States in such areas through the regional arrangements, taking into account the activities of international organizations concerned in these fields.

PROVISION V

Formula A

The preservation and protection of the marine environment of an enclosed or semi-enclosed sea and the management of its resources shall be the responsibility of the coastal States. To this end the coastal States may, in addition to global norms—

(a) adopt regional rules and standards aimed at the better protection of their environment against marine pollution.

(b) co-ordinate their activities in relation to the management and exploitation of the renewable resources of the enclosed or semi-enclosed sea under regional arrangements.

Formula B

In those areas, the preservation of the marine environment and the control of pollution shall be managed jointly among the riparian States. Rules, regulations and standards for this purpose shall be based on internationally agreed standards. Due consideration shall be given to the work done by the competent international organizations in this regard.

PROVISION VI

Scientific research in an enclosed or semi-enclosed sea shall be conducted only with the consent of the coastal States concerned.

PROVISION VII

Formula A

1. Merchant ships and government ships operated for commercial purposes which are proceeding to or from a coastal State bordering a semi-enclosed sea whose access to ocean space lies exclusively through straits connecting two parts of the high seas and traditionally used for international navigation shall enjoy the right of free transit for this purpose.

2. The regime of passage provided for in this article shall, however, be applied in accordance with the following provisions:

(a) During passage, ships shall observe all international regulations concerning the prevention of collisions and shall accordignly comply with such traffic separation schemes as may derive from this Convention or from recommendations by IMCO.

(b) Ships shall likewise take all preventive measures necessary to avoid causing any damage to the coastal States bordering the straits.

(c) Damage caused to the coastal State as a result of the exercise by a ship of the right of passage under the regime of free transit shall entitle that State to claim compensation.

(d) No State shall be entitled to interrupt or suspend free transit through straits or to take any measures likely to hamper such transit.

3. The provisions of this article:

(a) Apply only to straits which connect two parts of the high seas and which are traditionally used for international navigation;

(b) Do not apply to straits already regulated by international conventions.

4. Warships and government ships operated for non-commercial purposes which are passing through straits under the conditions provided for in paragraph 1, shall enjoy the right of innocent passage.

5. The regime of innocent passage must be established in such a way as to safeguard the legitimate rights and interests of coastal States with regard, *inter alia*, to national security and safety of navigation.

Formula B

1. The provisions of this article apply only to straits which connect two parts of the high seas and which are customarily used for international navigation.

2. Ships of all States shall enjoy freedom of navigation in straits connecting two parts of the high seas, whether they are open seas of semi-enclosed seas.

Formula C

(See Provision IV, Formula C; Provision V, Formula B; Provision VI, Formula B; Provision VII, Formula B; Provision VIII; Provision X, Formula B; Provision XII and Provision XIII, Formula A in Informal Working Paper No. 2/Rev. 1.)

PROVISION VIII

Where the establishment of a 12-mile territorial sea in semi-enclosed sea, which constitutes part of the high seas, has the effect of enclosing as territorial sea areas previously considered as part of the high seas, freedom of navigation shall exist in those waters.

[Informal Working Paper No. 12/Rev. 2, Aug. 26, 1974]

Formulation of Main Trends

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of support they have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. It does not imply either that all the proposals from which these formulations have been taken have been the subject of discussion. The inclusion of a provision in this paper, whether or not only one formula appears, does not necessarily imply that there are no other opinions concerning these questions or that all or most delegations agree on the necessity for such a provision.

All the proposals submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus, the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of taking any decisions at the present stage, in accordance with the method of work adopted by the Committee at its meeting on 3 July, once this task has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

Reference in this paper to the continental shelf is without prejudice to the position of those delegations for whom the concept of the continental shelf would be subsumed under the concept of the exclusive economic zone.

ITEM 18—ARTIFICIAL ISLANDS AND INSTALLATIONS

Provisions I–II: Territorial sea.
Provisions III–VII Continental shelf.
Provision VIII: Economic zone.
Provisions IX–X: Duties of coastal States.
Provision XI: High seas.

ITEM 18—ARTIFICIAL ISLANDS AND INSTALLATIONS

PROVISION I

The Coastal State is entitled to construct artificial islands or immovable installations in its territorial sea.

PROVISIONAL II

[The coastal State] must not, through such structures, impede access to the ports of a neighbouring State or cause damage to the marine environment of the territorial seas of neighbouring States.

Before commencing the construction of artificial islands or installations as mentioned in the preceding provision, the coastal State shall publish the plans thereof and take into consideration any observations submitted to it by other States. In the event of disagreement, an interested State which deems itself injured may appeal to IMCO, which though not empowered to prohibit the construction, may prescribe such changes or adjustments as it considers essential to safeguard the lawful interests of other States.

PROVISION III

Formula A

The coastal State is entitled to construct, maintain or operate on or over the continental shelf installations and other devices necessary for the exercise of its rights over the same, to establish safety zones around such devices and installations, and to take in those zones measures necessary for their protection. Ships of all nationalities shall respect these safety zones, which may extend up to . . . around the installations or devices.

Formula B

The coastal State shall have the exclusive right to authorize and regulate on the continental shelf the construction, operation and use of off-shore installations for the purpose of exploration or exploitation of natural resources or for other economic purposes.

The coastal State may, where necessary, establish reasonable safety zones around such off-shore installations in which it may take appropriate measures to ensure the safety both of the installations and of navigation. Such safety zones shall be designed to ensure that they are reasonably related to the nature and function of the installation. Ships of all nationalities must respect these safety zones.

The breadth of the safety zones shall be determined by the coastal State and shall conform to applicable international standards in existence or to be established by the Inter-Governmental Maritime Consultative Organization regarding the establishment and breadth of safety zones. In the absence of such additional standards, safety zones around installations for the exploration and exploitation of non-renewable resources of the sea-bed and subsoil may extend to a distance of 500 metres around the installations, measured from each point of their outer edge.

States shall ensure compliance by vessels of their flag with applicable international standards regarding navigation outside the safety zones but in the vicinity of such off-shore installations.

Installations and safety zones around them may not be established where interference may be caused to the use of recognized sealanes essential to international navigation.

PROVISION IV

Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.

PROVISION V

1. The coastal States may, on the conditions specified in the following paragraph, authorize the construction on its continental shelf of artificial islands or immovable installations serving purposes other than the exploration or exploitation of natural resources. Such structures shall be placed under its jurisdiction or

under that of the State which undertakes their construction, and, with a view to their protection, may be surrounded by safety zones extending not more than 500 metres. Such artificial islands or immovable installations have no territorial sea of their own.

2. Before commencing the construction of artificial islands or installations as mentioned in paragraph 1, the State shall publish plans thereof and take into consideration any observations submitted to it by other States. In the event of disagreement, an interested State which deems itself injured may appeal to . . ., which shall prescribe, where appropriate, such changes or adjustments as it considers essential to safeguard the lawful interests of other States.

PROVISION VI

Formula A

Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

Formula B

For the purpose of this section, the term "installations" refer to artificial off-shore islands, facilities, or similar devices, other than those which are mobile in their normal mode of operation at sea. Installations shall not afford a basis for a claim to a territorial sea or economic zone, and their presence does not affect the delimitation of the territorial sea or economic zone of the coastal State.

PROVISION VII

Formula A

A coastal State shall authorize the laying of submarine cables and pipelines on the continental shelf, without restrictions other than those which may result from its rights over the same.

The establishment of any other type of installation by third States or their nationals is subject to the permission of the coastal State.

Formula B

No State shall be entitled to construct, maintain, deploy or operate on the continental s helf of another State and military installations or devices or any other installations for whatever purposes without the consent of the coastal State.

Formula C

Subject to the provisions of paragraphs 4 and 6 of this article, the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources, and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection.

PROVISION VIII

Formula A

The coastal State shall authorize and regulate the emplacement and use of artificial islands and any kind of facilities on the surface of the sea, in the water column and on the sea-bed and subsoil of the patrimonial sea.

Formula B

1. The coastal State shall have the exclusive right to authorize and regulate, in the economic zone, the construction, operation and use of artificial islands and installations for the purpose of exploration or exploitation of natural resources, or for other economic purposse, and of any installations which may interfere with the exercise of the rights of the coastal State in the economic zone.

2. The coastal State may, where necessary, establish reasonable safety zones around such off-shore installations in which it may take appropriate measures to ensure the safety both of the installations and of navigation.

3. The provisions of article . . . shall apply, *mutatis mutandis*, to such artificial islands and installations.

Formula C

Subject to the provisions of paragraphs . . . and . . . of the present article, the coastal State shall have the sovereign right to engage in, decide on and regulate, within the economic zone, the construction, operation and utilization of non-coastal installations and other facilities, set up for purposes of exploration and exploitation of the natural resources of the economic zone.

PROVISION IX

Formula A

A coastal State shall not erect or establish artificial islands and other installations, including safety zones around them, in such a manner as to interfere with the use by all States of recognized sealanes and traffic separation schemes essential to international navigation.

Formula B

None of the installations and other facilities or safety zones around them mentioned in paragraphs . . . and . . . of the present article may be set up in places where they might be a hindrance to the use of the regular sea routes which are of essential importance to international navigation, or of areas which are of special importance to fishing.

PROVISION X

The coastal State shall ensure compliance with the agreed international standards concerning the breadth of the safety zone around non-coastal installations and other facilities and navigation beyond the limits of the safety zone but close to such non-coastal installations and other facilities.

PROVISION XI

Any construction of an artificial island or immovable installation on the high seas beyond the limits of the continental shelf shall be subject to the authority and jurisdiction of the international machinery for the sea-bed. The international authority may authorize a State to erect such islands or installations and delegate jurisdiction over such structures to that State.

[Informal Working Paper No. 13/Rev. 2, Aug. 27, 1974]

Formulation of Main Trends

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of support they have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. It does not imply either that all the proposals from which these formulations have been taken have been the subject of discussion. The inclusion of a provision in this paper, whether or not only one formula appears, does not necessarily imply that there are no other opinions concerning these questions or that all or most delegations agree on the necessity for such a provision.

All the proposals submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus, the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of taking any decisions at the present stage, in accordance with the method of work adopted by the Committee at its meeting on 3 July, once this task has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

ITEM 19– RÉGIME OF ISLANDS

Provision I: Definitions.
(a) Islands under colonial dependence or foreign domination or control.
Provision II.
(b) Other related matters.
Provisions III–IV: Maritime spaces of islands.
Provision V: Baselines.
Provision VI: Delimitation.

Item 19—Regime of Islands

Definitions:

PROVISION I

Formula A

An island is a naturally formed area of land, surrounded by water, which is above water at high tide.

Formula B

1. An island is a vast naturally formed area of land, surrounded by water, which is above water at high tide.
2. An islet is a smaller naturally formed area of land, surrounded by water, which is above water at high tide.
3. A rock is a naturally formed rocky elevation of ground, surrounded by water, which is above water at high tide.
4. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide.

Formula C

1. An islet is a naturally formed elevation of land (or simply an eminence of the sea-bed) less than one square kilometre in area, surrounded by water, which is above water at high tide.
2. An island similar to an islet is a naturally formed elevation of land (or simply an eminence of the sea-bed) surrounded by water, which is above water at high tide, which is more than one square kilometre but less than . . . square kilometres in area, which is not or cannot be inhabited (permanently) or which does not or cannot have its own economic life.

(a) *Islands under colonial dependence or foreign domination or control:*

PROVISION II

Formula A

In respect of a territory whose people have attained neither full independence nor some other self-governing status following an act of self-determination under the auspices of the United Nations, the rights to the resources of the economic zone created in respect of that territory and to the resources of its continental shelf are vested in the inhabitants of that territory to be exercised by them for their benefit and in accordance with their needs and requirements. Such rights may not be assumed, exercised or profited from or in any way infringed by a metropolitan or foreign power administering or occupying that territory.

Formula B

1. No economic zone shall be established by any State which has dominion over or controls a foreign island in waters contiguous to that island.
2. The inhabitants of such islands shall be entitled to create their economic zone at any time prior to or after attaining independence or self-rule. The right to the resources of such economic zone and to the resources of its continental shelf are vested in the inhabitants of that island to be exercised by them for their benefit and in accordance with their needs or requirements.
3. In case the inhabitants of such islands do not create an economic zone, the Authority shall be entitled to explore and exploit such areas, bearing in mind the interests of the inhabitants.

Formula C

The rights recognized or established in the present Convention shall not be invoked by the colonial or occupying Power in respect of islands and other territories under colonial domination or foreign occupation as long as that situation persists.

Formula D

Concerning islands under colonial domination, racist regime or foreign occupation, the rights to the maritime spaces and to the resources thereof belong to the inhabitants of those islands and must profit only their own development.

No colonial or foreign or racist Power which administers or occupies those islands shall exercise those rights, profit from them or in any way infringe upon them.

(b) *Other related matters:*

PROVISION III

Formula A

1. Maritime spaces of islands shall be determined according to equitable principles, taking into account all relevent factors and circumstances including, *inter alia*—

(a) the size of islands;

(b) the population or the absence thereof;

(c) their contiguity to the principal territory;

(d) whether or not they are situated on the continental shelf of another territory;

(e) their geological and geomorphological structure and configuration.

2. Island States and the regime of archipelagic States as set out under the present Convention shall not be affected by this article.

Formula B

1. Subject to paragraph 4 of this article, the territorial sea of an island is measured in accordance with the provisions of this Convention applicable to other land territory.

2. The economic zone of an island and its continental shelf are determined in accordance with the provisions of this Convention applicable to other land territory.

3. The foregoing provisions have application to all islands, including those comprised in an island State.

4. In the case of atolls or of islands having fringing reefs, the baseline for measuring the breadth of the territorial sea shall be the seaward edge of the reef, as shown on official charts.

Formula C

1. The sovereignty and jurisdiction of a State extends to the maritime zones of its islands determined and delimited in accordance with the provisions of this Convention applicable to its land territory.

2. The sovereignty over the island extends to its territorial sea, to the air space over the island and its territorial sea, to its sea-bed and the subsoil thereof and to the continental shelf for the purpose of exploiting its natural resources.

3. The island has a contiguous zone and an economic zone on the same basis as the continental territory, in accordance with the provisions of this Convention.

Formula D

1. An island situated in the economic zone or on the continental shelf of other States shall have no economic zone or continental shelf of its own if it does not contain at least one tenth of the land area and population of the State to which it belongs.

2. Islands without economic life and situated outside the territorial sea of a State shall have no marine space of their own.

3. Rocks and low tide elevations shall have no marine space of their own.

Formula E

1. The marine spaces of islets or islands similar to islets situated in the territorial sea, on the continental shelf or in the economic zone of another State shall be determined by agreement between the States concerned or by other means of pacific settlement used in international practice.

2. The marine spaces of such elevations of land situated in the international zone of the sea-bed shall be established by agreement with the international authority for that zone.

PROVISION IV

Formula A

1. In principle, a State may not invoke the existence, in one of its maritime zones, of islets or islands similar to islets, as defined in article . . ., for the purpose of extending the marine spaces which belong to its coasts.

2. Where such elevations of land are situated along the coast of the same State, in immediate proximity thereto, they shall be taken into consideration, in accordance with the provisions of this Convention, for the purpose of establishing the baseline from which the breadth of the territorial sea is measured.

3. Where an islet or island similar to an islet is situated in the territorial sea of the same State but very close to its outer limit, the State in question may reasona-

bly extend its territorial waters seaward or establish an additional maritime zone for the protection of lighthouses or other installations on such islet or island. The additional zones thus established shall in no way affect the marine spaces belonging to the coasts of the neighbouring State or States.

4. Islets or islands similar to islets which are situated beyond the territorial sea, on the continental shelf or in the economic zones of the same State, may have around them or around some of their sectors security areas or even territorial waters in so far as this is without prejudice to the marine spaces which belong to the coasts of the neighbouring State or States.

Where such eminences of the sea-bed are situated very close to the outer limit of the continental shelf or of the economic zone, the extension of their security zones or their territorial waters shall be established by agreement with the neighbouring State or States, or, where appropriate, with the authority for the international zone, having regard to all relevant geographic, geological or other factors.

Formula B

1. An island, islet, rock or a low-tide elevation are considered as *adjacent* when they are situated in proximity of the coasts of the State to which they belong.

2. An island, islet, rock or a low-tide elevation are considered as *non-adjacent* when they are not situated in the proximity of the coasts of that State to which they belong.

3. The baselines applicable to adjacent islands, islets, rocks and low-tide elevations, in accordance with article . . ., are considered as the baselines applicable to the State to which they belong and consequently are used in the measurement of the marine spaces of that State.

4. The marine spaces of islands considered non-adjacent, in accordance with paragraphs . . ., shall be delimited on the basis of relevant factors taking into account equitable criteria.

5. These equitable criteria should notably relate to:

—the size of these naturally formed areas of land;

—their geographical configuration and their geological and geomorphological structure;

—the needs and interests of the population living thereon;

—the living conditions which prevent a permanent settlement of population;

—whether these islands are situated on the continental shelf of another State or in the proximity of its marine space;

—whether, due to their situation far from the coast, they may influence the equity of the delimitation.

6. A State cannot claim jurisdiction over the marine space by virtue of the sovereignty or control which it exercises over a non-adjacent islet, rock or low-tide elevation as defined in paragraphs . . . of article . . . .

7. In accordance with paragraph 4 of this article, safety zones of reasonable breadth may nevertheless be established around such non-adjacent islets, rocks or low-tide elevations.

8. The provisions of paragraphs 1–7 shall not apply either to island or to archipelagic States.

9. A coastal State cannot claim rights based on the concept of archipelago or archipelagic waters by reason of its exercise of sovereignty or control over a group of islands situated off its coasts.

Formula C

See Provision IV, Formula A; Provision V, Formula A; Provision VII, Formula A and Provision VIII of Informal Working Paper No. 1/Rev.2.

PROVISION V

Formula A

1. The delimitation of any marine or ocean space shall, in principle, be effected between the coasts proper of the neighbouring States, using as a basis the relevant points on the coasts or on the applicable baselines, so that the areas situated off the sea frontage of each State are attributed thereto.

2. Islands which are situated in the maritime zones to be delimited shall be taken into consideration in the light of their size, their population or the absence thereof, their situation and their geographical configuration, as well as other relevant factors.

3. Low-tide elevations, islets and islands that are similar to islets (of small size, uninhabited and without economic life) which are situated outside the territorial waters off the coasts and which constitute eminences on the continental shelf—

whether lighthouses or other installations have been built on them or not—and man-made islands—regardless of their dimensions and characteristics—shall not be taken into consideration in the delimitation of marine or ocean space between neighbouring States.

4. The naturally formed areas of land referred to in paragraph 3 may have around them or around some of their sectors maritime safety areas or even territorial waters, provided they do not affect marine spaces belonging to the coasts of neighbouring States.

5. The provisions of the present article shall not be applicable to islands and to other naturally formed areas of land which constitute part of an island State or of an archipelagic State.

Formula B

In areas of semi-enclosed seas, having special geographic characteristics, the maritime spaces of islands shall be determined jointly by the States of that area.

Formula C

1. In accordance with the provisions of article . . ., paragraph . . . and article . . ., paragraphs . . ., the delimitation of the marine spaces between adjacent and/or opposite States must be done, in the case of presence of islands, non-adjacent islets, rocks and low-tide elevations, by agreement between them according to principles of equity, the median or equidistance line not being the only method of delimitation.

2. For this purpose, special account should be taken of geological and geomorphological criteria, as well as of all other special circumstances.

Formula D

1. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line, every point of which is equidistant from the nearest points on the baselines continental or insular, from which the breadth of the territorial seas of each of the two States is measured.

2. Where the coasts of two or more States are adjacent or opposite to each other, the delimitation of the continental shelf boundaries shall be determined by agreement amongst themselves.

3. Failing such agreement, no State is entitled to extend its sovereignty over the continental shelf beyond the median line every point of which is equidistant from the nearest points of the baselines, continental or insular, from which the breadth of the continental shelf of each of the two States is measured.

4. Where the coasts of two or more States are adjacent or opposite to each other and the distance between them is less than double the uniform breadth, provided in this Convention, the delimitation of their economic zones and of their sea-bed areas shall be determined by agreement among themselves.

5. Failing such agreement, no State is entitled to extend its rights over an economic zone and sea-bed area beyond the limits of the median line every point of which is equidistant from the nearest points of the baselines, continental or insular, from which the breadth of the above areas of each of the two States is measured.

Formula E

Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its maritime spaces beyond the median line, every point of which is equidistant from the nearest points on the baselines, continental or insular, from which the breadth of the maritime spaces of each of the two States is measured.

Formula F

Where the coasts of two or more States are adjacent and/or opposite to each other, the delimitation of the respective maritime spaces shall be determined by agreement among them in accordance with equitable principles, taking into account all the relevant factors including, *inter alia*, the geomorphological and geological structure of the sea-bed area involved, and special circumstances such as the general configuration of the respective coasts, and the existence of islands, islets or rocks within the area.

Formula G

1. The delimitation of the continental shelf or of the economic zone between adjacent and/or opposite States shall be affected by agreement between them in accordance with an equitable dividing line, the median or equidistance line not being the only method of delimitation.

2. For this purpose, account shall be taken, *inter alia*, of the special nature of certain circumstances, including the existence of islands or islets situated in the area to be delimited or of such kind that they might affect the delimitation to be carried out.

AUTHORIZATION INCREASE—GRANT ALLOCATION FLEXIBILITY

WEDNESDAY, SEPTEMBER 18, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OCEANOGRAPHY OF THE
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:10 a.m., in room 1334, Longworth Office Building, Hon. Thomas N. Downing, chairman of the subcommittee, presiding.

Mr. DOWNING. The Subcommittee on Oceanography is meeting today to hear testimony on H.R. 16215, a bill to amend the Coastal Zone Management Act of 1972, to provide more flexibility in the allocation of administrative grants to coastal States, and for other purposes.

The purpose of the basic act is to provide assistance, both financial and technical, to State and local governments in their efforts to protect and use more wisely the Nation's coastal areas.

While action in funding the act was slow, funding ultimately became available in December 1973, and I am pleased to note the enthusiastic acceptance of the program by the States and the rapid progress which has been made.

Later this fall the subcommittee will be making an in-depth evaluation of the act and its implementation, and it is entirely possible that some changes in the legislation may be necessary.

However, the bill today concerns itself with only three rather routine changes which appear to be desirable, based upon the experience gained in the early administration of the act.

[H.R. 16215 and departmental reports follow:]

[H.R. 16215, 93d Cong., 2d sess.]

A BILL To amend the Coastal Zone Management Act of 1972, to provide more flexibility in the allocation of administrative grants to coastal States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Coastal Zone Management Act of 1972 (86 Stat. 1280) is amended as follows:

(1) Subsection (b) of section 306 is amended by deleting all after "relevant factors:", and by inserting in lieu thereof "*Provided,* That no annual grant made under this section shall be in excess of $2,000,000 for fiscal year 1975, in excess of $2,500,000 for fiscal year 1976, nor in excess of $3,000,000 for fiscal year 1977: *Provided further,* That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section.".

(2) Subsection (a) of section 315 is amended—

(A) by amending item (1) to read as follows:

"(1) the sum of $9,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, and the sum of $12,000,000 for each of the three succeeding fiscal years, for grants under section 305, to remain available until expended;" and

(B) by inserting, in item (3), after "fiscal year ending June 30, 1974," the following: "and for each of the three succeeding fiscal years,".

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., November 25, 1974.

Hon. LEONOR K. SULLIVAN,
Chairman, Merchant Marine and Fisheries Committee,
House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: This is to inform you of a modification of the Department's position with respect to the authorization levels now contained in the Coastal Zone Management Act of 1972. Our earlier position was stated in testimony before your Committee on September 18, 1974, in connection with hearings on H.R. 16215.

In view of the fact that the President has recently announced his decision to request increased funding under the terms of the Coastal Zone Management Act for coastal states impacted by accelerated Federal oil and gas leasing activities, the Administration is preparing legislation increasing the Act's authorization level to $12 million per year for Section 305. The legislation will also deal with several minor technical matters.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
General Counsel.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., September 24, 1974.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: This is in response to your request for the views of this Department with respect to H.R. 16215, a bill

> To amend the Coastal Zone Management Act of 1972, to provide more flexibility in the allocation of administrative grants to coastal states, and for other purposes.

This bill proposes revisions to three separate provisions of the Coastal Zone Management Act. The first proposed change would remove the 10 percent limitation on the amount of money that can be granted to applicant states under the Administration Grant program (Section 306) of the Act. This limitation, built into the present Coastal Zone Management Act of 1972, prevents adequate funding under Section 306 which will occur in the first and last years of that program when less than 10 states will apply for management program administrative grants. Thus, in fiscal year 1975, it is conceivable that three or four times as much money as would be required would have to be appropriated in order that the size of individual grants to the several states be large enough to cover administration of the management programs envisaged under Section 306. Moreover, the 10 percent limitation prevents expenditure of the entire appropriation for that fiscal year when less than 10 states apply.

In place of the 10 percent limitation, it is recommended that monetary amounts be proposed: $2 million for FY 1975; $2.5 million for FY 1976; and $3 million for FY 1977. This obviously will eliminate the need to request a greater appropriation than is actually needed in order to meet the demands under Section 306 of the Act.

The second provision in the bill would raise the authorization level available to the states under the management program development grant portion of the Act (Section 305). The amount requested for this program in the 1975 budget is within the current authorization level. Given the overriding need to control Federal spending the Administration believes that an increase in the 1975 level is not desirable and therefore these higher authorization levels are not necessary or appropriate at this time. In developing the fiscal 1976 budget request, consideration will be given to the possible need for an increase in the funding level. If it is determined that an increase is appropriate, the Administration will then propose an increase in the authorization level.

Finally, the third provision of this bill seeks to extend funding beyond FY 1974 for the Estuarine Grant provision (Section 312) of the Act. The estuarine sanctuary program has evoked considerable positive response from at least 20 coastal states. The Office of Coastal Zone Management and the Department are

now studying alternative overall national plans for the Nation's estuarine sanctuary needs to provide the basis for decisions on the scope of the Federal program. When those studies are completed and evaluated we will then be in a position to propose specific legislative changes. Meanwhile, the Administration believes that it would be premature to extend the current authorization level for three years.

In summary the Department recommends against enactment of the provisions of H.R. 16215, except for the proposed amendment to Section 306 with respect to the 10 percent limitation on the amount which can be granted to any one state.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
General Counsel.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., October 16, 1974.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives.

DEAR MADAM CHAIRMAN: Concerning your letter of August 12, 1974, requesting a report on H.R. 16215, a bill to amend the Coastal Zone Management Act of 1972, to provide more flexibility in the allocation of administrative grants to coastal States, this is to advise that we have no comment to make.

Sincerely,

ROBERT F. KELLER,
Deputy Comptroller General of the United States.

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE,
Washington, D.C., September 24, 1974.

Hon. THOMAS N. DOWNING,
Chairman, Subcommittee on Oceanography, House Merchant Marine and Fisheries Committee, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN DOWNING: Speaking for the National Advisory Committee on Oceans and Atmosphere (NACOA), we should like to express support for H.R. 16215, amending the Coastal Zone Management Act of 1972 (86 Stat. 1280). As you will recall in our first Annual Report, 30 June 1972, we recorded our strong support for the House and Senate bills, then pending, which later became the Coastal Zone Management Act, and in our second Report, 29 June 1973, we strongly urged the Administration to reconsider its decision not to fund the program in FY '73 and '73, a decision which was ultimately reversed.

Our interest in this program continues strong and we addressed recommendations for its further improvement in our third Report, dated 28 June 1974. We are pleased to note that H.R. 16215 speaks to some of these recommendations. Most importantly it amends Section 315 by extending the funding of the Estuarine Sanctuaries Program provided by Section 312 of the Act beyond the original single year, FY '74, to apply to the succeeding three fiscal years, 1975–77. We also support the provision of the bill increasing the level of the funding authorized for management program development grants, Section 305.

Although not all our recommendations are satisfied in this particular legislation, we recognize the practical problem of time-phasing the development of such a relatively new program. We do support this legislation as an important step in the right direction.

Sincerely,

WILLIAM A, NIERENBERG,
Chairman.
WILLIAM J. HARGIS, Jr.,
Vice Chairman.

Mr. DOWNING. I will not go into detail as to what the specific changes are at this time in the bill but for the record, I would like to

submit a copy of the statement which I made on the floor of the House on August 1, 1974, when I introduced the bill.

I ask unanimous consent that the statement be included at this point in the record.

[The remarks of Mr. Downing follow:]

PROPOSED CHANGES TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

Mr. DOWNING. Mr. Speaker, I am introducing today a bill to make certain needed changes in the Coastal Zone Management Act of 1972.

The purpose of the Coastal Zone Management Act is to provide assistance, both financial and technical, to State and local governments in their efforts to protect and use more wisely the Nation's coastal areas. In addition to the financial incentives provided in the act, the legislation also calls on the Federal Government to aline Federal activities that affect State coastal zones with State coastal zone management programs. The third important provision of the legislation authorizes grants to States for the purposes of acquiring and maintaining estuarine sanctuaries to serve as natural field laboratories to assist in the development of coastal zone management programs.

Although the act was passed almost 2 years ago, it was not until 6 months ago that the administration allowed the program to be funded. And this minimum funding only came about as a result of pressure from the Congress. In any event, funding was made available in December 1973, and I am pleased to note the enthusiastic acceptance of the program by the States and the rapid progress which has been made.

During fiscal year 1974, in only 6 months, grants for developing coastal zone management programs consistent with the legislation were made to 28 State. These are the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Texas, Washington, and Wisconsin. All together, $7.2 million of Federal grants have been made available to the States for the purpose of assisting them and their subdivisions in developing programs for the management of their valuable coastal areas.

The National Oceanic and Atmospheric Administration, administering the program, indicates that an additional three States will receive grants during early fiscal 1975. Thirty-one of the 34 eligible States and territories of our Nation are now actively involved in the coastal zone management program, and two of the remaining three have filed letters of intent to submit grant requests shortly.

Mr. Speaker, as I mentioned earlier, another important provision in the Coastal Zone Management Act authorizes the Federal Government to give grants to States to assist them in acquiring and operating estuarine sanctuaries for research purposes. This provision was viewed as an important adjunct to States' ability to develop a meaningful and scientifically sound coastal zone management program. The first such grant was awarded to the State of Oregon during the month of June and at least six more States are expected to submit grant applications within the next 12 months.

Those of us who were involved in sponsoring the original legislation anticipated the growing importance of our coastal zones and the need to move promptly to provide a mechanism to assist in resolving coastal zone problems. The emergence of the energy crisis is only the latest manifestation of the pressing need for rational coastal zone management in both the State and national interest.

At the present time, the Coastal Zone Management Act is the primary mechanism available for bringing about the necessary State and Federal coordination regarding location and operation of energy related facilities in the coastal zone. However, the funding levels authorized in the legislation are extremely low, considering the magnitude of the problems that States have to confront, and we want shortly to consider whether to provide additional funding authorization to meet coastal zone needs.

However, the bill I am introducing today addresses itself to only three areas in making the act more flexible and more responsive to program needs. The first involves the needs to extend the authorization for the estuarine sanctuaries

portion of the program beyond the initial 1 year currently provided for in the basic act. The second involves a technical change which would replace the percentage limitation on grant size with a figure limitation. This will accomplish the original purpose but in a more flexible manner. And the third requests an increase in the authorization amount for section 305, the program development provision, to aline it more closely with the needs of the States.

Concerning the first change, Mr. Speaker, it is clear that our estuaries are among the most valued parts of our Nation's resources. They are the fertile nursery grounds for our rich and varied coastal fisheries; they are the habitat and nesting areas for water fowl and migratory birds; they offer bountiful opportunity for recreation and leisure time pursuits of many kinds; and under certain conditions, with proper environmental safeguards, they can support important economic and commercial activities.

The legislative history of the estuarine sanctuaries provision of the Coastal Zone Management Act makes it clear that this element of the program was intended to serve as an integral part of the overall coastal zone management programs of our coastal States. The sanctuaries program was designed to provide States with assistance in acquiring and operating natural field laboratories in which techniques and approaches proposed to be incorporated within their coastal management programs could be tested and perfected. The framers of the legislation also felt it important that the system of estuarine sanctuaries established through the assistance of the program be representative of the important types of estuarine systems found along our Nation's coasts.

Studies have indicated that at least 15 sanctuaries will be needed to include the major types of ecosystems found in the estuaries of the United States. Discussions between the representatives of NOAA and those of the coastal States have shown that at least 20 States have a positive interest in participating in the estuarine sanctuaries program. This would suggest that at least 20 sanctuaries are going to be required to meet essential coastal State requirements and, at the same time, provide for the necessary regional and natural differentiation.

Clearly, therefore, the sanctuaries program will need authorization for a period longer than the present 1 year in order to meet requirements. An extension of the authorization for this phase of the program for 3 additional years, that is, through fiscal year 1977, would be adequate to meet the needs presently anticipated.

The amendatory language which I am introducing today extends this phase of the coastal zone management program through fiscal year 1977 to accomplish this purpose. This action will aline the authorization period of this phase of the coastal zone management program with the other major portions of the act. It holds the authorization level for each of the next 3 years at the $6 million amount currently contained in the act.

Mr. Speaker, the second change I am proposing is a technical one. It pertains to language in the act which limits the size of grants to individual States to 10 percent of the amount of money available in a given year. In a normal year, with most coastal States participating, this provision would cause no problem and would serve its intended purpose as a desirable safeguard. However, during the initial year of a grant program, when only a few States are expected to participate, a problem will arise with the 10-percent limitation. For example, in the worst case, with only one State participating, that State could only receive one-tenth of the amount of money available that year for that type of grant. This means that 10 times as much money would have to be requested and appropriated for this purpose as was actually going to be given to the State requesting the grant.

This matter should be dealt with now because it will arise during the present fiscal year in connection with administrative grants to be made under section 306 of the act. It is expected that not more than two or three States will be in a position to qualify for these grants this year. If that is so, the 10-percent limitation will create a major difficulty, without any attendant benefits.

The amendment I introduce today simply substitutes a maximum dollar figure for the 10-percent limitation on maximum grant size for section 306 grants. This proposed change represents a more flexible means of accomplishing the same purpose. I do not foresee that this change will erode in any way the 10-percent safeguard that has been placed on the administration in this program. The limitation will simply be expressed in more effective terms.

Mr. Speaker, the last change which the bill proposes raises the authorization level for management program development grants given under the Coastal Zone

Management Act from $9 million to $12 million. Experience gained during the present fiscal year indicates quite clearly that the current maximum authorization of $9 million for program development grants will be inadequate during fiscal year 1975. In fact, Mr. Speaker, in fiscal year 1974, States applying to NOAA for management program development grants received, on the average, approximately 30 percent less than the amount requested. Furthermore, information provided by the States with regard to their anticipated second year requirements—fiscal year 1975—indicate that most States will be needing approximately 30 percent more money in their second year compared to their first year as they move to complete management programs consistent with the guidelines set out in the act. The magnitude of State needs both in fiscal year 1975 partly reflect the fact that NOAA is encouraging States to attempt to complete federally appropriate management programs in a shorter time than the 3 years allowed for in the act. I heartily support this acceleration of effort and strongly urge action on the bill in the present Congress in order that the necessary Federal resources can be made available. It is anticipated that the full $12 million may be critical only in fiscal year 1975 since, beginning in fiscal year 1976, States will be applying for and receiving administrative grants under section 306 of the act to operate approved management programs. However, the additional authorization should continue through 1977, should future developments require it. Actual appropriations sought should obviously be less, depending on the speed with which the States complete the development phase and move to administrative grants under section 306.

Mr. Speaker, in conclusion, given the importance of the coastal zone management program and the need for its continued vigorous implementation, I solicit the support of other Members in the prompt enactment of these amendments into law.

Thank you.

Mr. DOWNING. Today, we are scheduled to hear from representatives of the National Oceanic and Atmospheric Administration, and from a representative of the State of Michigan who also serves as a member of the executive commitee of the Coastal States Organization, a group which is directly concerned with the Coastal Zone Management Act and its implementation.

Our first witness will be Mr. Robert W. Knecht, director, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration.

We welcome you, Mr. Knecht. Before you proceed I would like to ask unanimous consent that a letter addressed to the Honorable Leonor K. Sullivan, chairman of the Merchant Marine and Fisheries Committee from State Senator A. R. Schwartz who is chairman of the Coastal States Organization be inserted in the record at this point together with a letter and accompanying material from Senator George D. Aiken addressed to the Honorable Leonor K. Sullivan dated September 13, 1974.

[The letters of Mr. Schwartz and Senator Aiken follow:]

COASTAL STATES ORGANIZATION,
September 13, 1974.

Hon. LEONOR K. SULLIVAN,
Chairman, Merchant Marine and Fisheries Committee,
Washington, D.C.

DEAR MRS. SULLIVAN: The Coastal States Organization is concerned about H.R. 16215, which would amend the Coastal Zone Management Act of 1972 (PL 92-583), which is about to be heard by your committee. The Coastal States Organization supports the amendments proposed in H.R. 16215 and offers the following observations on the various sections:

(1) Raising the Sec. 305 authorization from $9 million to $12 million per year—The states, in the development of their work programs in response to PL 92-583, have identified coastal management needs in excess of the original authorization, and have expressed a willingness to provide increased.

state matching funds. Considering the well-established importance of coastal resources, and adding to this the additional pressures resulting from increased energy production activities on the coast, this $12 million seems a very small amount. *Thus, CSO strongly endorses increased funding authorization under Sec. 305 of PL 92–583.*

(2) Modification of the 10 percent maximum under Section 306 CSO endorses the Congressional intent on this provision to insure that all states would have an opportunity to participate under the Act. However, since some states are several years ahead of others in terms of implementing a management program, we recognize certain administrative impracticalities with wording in the current Act which would prevent a substantial amount of currently authorized funds from being utilized since less than ten states are ready for Sec. 306. *We believe the proposal contained in H.R. 16215 would alleviate this difficulty while still insuring that the original Congressional intent was followed, and thus we support this portion of H.R. 16215.*

(3) Extension of the estuarine sanctuary program—it seems logical that the authorization of the estuarine sanctuary program coincide with the authorization of the rest of the Act. *Hence CSO supports extending this section until the end of FY 1977.*

We appreciate the opportunity for CSO to make our views known on H.R. 16215. If we can be of any further assistance, please let me know.

The Coastal States Organization is in the process of developing some suggestions for further changes in PL 92–583. They will generally be some significant, substantative changes dealing with energy facilities, definition of national interest, etc., rather than the mechanical changes contained in H.R. 16215. These will be completed by the end of this year.

Sincerely,

A. R. SCHWARTZ,
Chairman, Texas State Senator.

U.S. SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D.C., September 3, 1974.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Washington, D.C.

DEAR LEONOR: In connection with your Committee's consideration of amendments to the Coastal Zone Management Act, I am enclosing proposed amendments to the definition section of the Act for your consideration.

The purpose of the amendments and the supporting material would be to include Lake Champlain under the definition of the Coastal Zone. Lake Champlain is an important part of the inland sea network and should be afforded the protection under the Coastal Zone Management Act. The State of Vermont supports this request and I will be sending along, when I receive it, a supporting statement from Governor Thomas Salmon.

I know that time is running out in this Session, but I understand you will soon be reporting out a bill with some amendments to the Coastal Zone Act. I hope the Committee will favorably consider amending the law to include Lake Champlain.

Sincerely yours,

GEORGE D. AIKEN.

PROPOSED AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT

LAKE CHAMPLAIN LANGUAGE

Amend Section 304(a) to read:

"Coastal zone means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lake *and Lake Champlain waters*, . . ."

Amend Section 304(c) to read:

" 'Coastal waters' means (1) in the Great Lakes *and Lake Champlain* areas, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes *and Lake Champlain*, . . ."

Amend Section 304(c) to read:

" 'Coastal state means a state of the United States in, or bordering on, the Atlantic, Pacific or Arctic Ocean, the Gulf of Mexico, Long Island Sound, *Lake Champlain,* or one or more of the Great Lakes . . ."

Amend Section 304(d) to read:

" 'Estuary' means that part of a river . . . diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes *and Lake Champlain.*"

IMPACT OF AMENDMENTS

These amendments to the Coastal Zone Management Act of 1972 would have the effect of:

(1) adding the waters, shores and adjacent lands of Lake Champlain to the area included within the purview of the Act,

(2) adding one State—Vermont—to those eligible for funding under the Act,

(3) permitting New York State and Vermont—perhaps in concert with Canadian authorities—to plan together to create a comprehensive management program for this valuable inland lake and its resources.

RATIONAL FOR INCLUSION OF LAKE CHAMPLAIN

(1) The coastal zone as presently defined in the Act includes the Great Lakes. The Lakes create an integral system which forms the drainage pattern for a good portion of the north central part of the United States. The coastal zone also includes the connecting waterways of the Great Lakes, such as the St. Mary's, St. Clair, Detroit, Niagara and St. Lawrence Rivers, as well as Lake St. Clair. This vast lake and river system shapes the boundary between the United States and Canada, except towards its point of confluence with the Atlantic Ocean, where it lies entirely within the confines of Canada.

Were it not for this politico-geographic configuration, it would be more commonly recognized that Lake Champlain is an integral part of this inland sea network. This 490-square mile body of water is fed by waters from the Adirondack and Green Mountains and in turn drains north through the Richelieu River in Quebec into the St. Lawrence below Montreal. It thus is an American tributary to the Great Lakes drainage basin and should be included as part of this Nation's coastal zone.

(2) Increasing population and affluence in the northeastern part of the United States are imposing new developmental pressures upon upstate New York and Vermont, particularly for second-home and recreational use. Much of this pressure will be directed toward the basic amenities embodied in Lake Champlain—its relatively unpolluted waters for swimming and boating; its scenic views of mountains and lake; its quiet two ndoT.seat 12356dl.fil,2sI 12356 612435665 mountains and lake; its quiet towns. To date, this unique resource has been spared the fate of much of the industrial development of the Great Lakes or the rampant urban growth of Long Island or Southern California. But in view of what has been happening in Vermont and elsewhere, this way may not last much longer. The fragility of the lake's shore will be subjected to new development proposals in the next few years and will require a rational plan for protecting the lake's environmental resources.

(3) The State of Vermont is recognized as a national leader in enacting and implementing environmental legislation, particularly relating to land use issues. Its activities merited 34 pages of discussion in the Council on Environmental Quality's publication, "The Quiet Revolution in Land Use Control." Vermont's program is generally considered as the most outstanding reflection of a State's concern for its future environmental well-being.

It is likely that the State's land use program as exercised along the shores of Lake Champlain will fit quite closely with the concept of an approvable State coastal zone management program as envisioned by the Coastal Zone Management Act. Inclusion of Vermont among the coastal States of the nation will not only enable it to obtain administrative grant funding upon approval of its management program, but would have the additional advantage of requiring consistency of Federal actions along the Lake's shoreline.

(4) By including Lake Champlain within the Nation's coastal zone, a unique opportunity would be created where New York and Vermont (and possibly Quebec) could cooperate in developing a unified management program. This conceivable could become a model for resource management action to an interstate, and perhaps international basis, to protect a vital and unique resource.

Mr. DOWNING. I would like to say that Senator Aiken requested an amendment to the bill which would allow Lake Champlain to be included in the coastal zone and he suggested an amendment to section 304(A) which reads as follows:

Coastal zone means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches.

The zone extends, in Great Lake and Lake Champlain waters, * * *.

I read that so the witnesses who appear this morning have an opportunity to comment on that.

Mr. Knecht, you may proceed.

STATEMENT OF ROBERT W. KNECHT, DIRECTOR, OFFICE OF COASTAL ZONE MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE, ACCOMPANIED BY JAMES BRENNAN, ESQ., OFFICE OF GENERAL COUNSEL, NOAA

Mr. KNECHT. Thank you, Mr. Chairman. It is a pleasure to be here and to speak to your subcommittee on the issue of possible amendment of the Coastal Zone Management Act.

I have a statement that has been prepared for the record, Mr. Chairman, and I would like to submit it in its entirety and simply highlight certain portions in my oral testimony, if that is satisfactory.

Mr. DOWNING. That is perfectly all right.

Mr. KNECHT. Thank you.

As you mentioned in your opening remarks, the Coastal Zone Management Act was passed about 2 years ago and funding became available in December of 1973, about 9 months ago.

I would like to give you a brief sketch of the progress to date, and comment specifically on the three amendments proposed in H.R. 16215.

We are very happy to report that essentially all of the coastal States are now participating in the coastal zone management program.

As of September 1, management program development grants have been awarded to 28 States and the Commonwealth of Puerto Rico.

One more State, New York and one Territory, the Virgin Islands will join the program very shortly and that will mean that 31 of the 34 coastal entities will be in the program and that $8.1 million in Federal funds will have been made available to those entities to begin the program.

Needless to say, we who are charged with the administration of the program are very gratified by this response but more important than simply the delivery of Federal dollars are the actions that are being taken by coastal States as a result of the existence of the Federal act.

I think the existence of the Federal coastal zone management legislation has clearly stimulated a substantial level of activity at the State level.

The process of applying for a Federal grant, has required the States to analyze their coastal problems, to review the strengths and weaknesses of their present land and water use controls along their coasts

and to lay out a work program to develop and implement improved management techniques.

Several States adopted legislation in anticipation of the passage of the Federal legislation. Rhode Island is an example of this.

A number of other States have since passed State laws assigning responsibility and setting up policies for the development of coastal zone management programs within their States.

These State laws were clearly stimulated by the existence of Federal legislation.

Certain States are now working on a timetable even shorter than the 3-year timetable in the Federal legislation to bring coastal zone management programs into operation in their States. North Carolina is an example in this case. The legislature has mandated an 18-month period during which that State will be developing and adopting a coastal zone management program.

In a number of other States, governors have issued executive orders creating agencies or commissions to launch the coastal zone management program effort.

Thus, I think it is clear even though Federal grants have been in the hands of States only 4 or 5 months in most cases, that real progress is already being made.

There is no doubt in my mind that the act is serving as it was intended, that is, to stimulate and encourage State and local government action in this important field.

On August 21, an important document was issued by our office which outlines the proposed criteria that will be used at the Federal level to judge the adequacy of proposed State management programs relative to the requirements contained in the Coastal Zone Management Act. These criteria are open for comment through October 15.

We are preparing to receive, beginning about January, applications for second year management program development grants.

We are now also beginning to work with those several States that are most advanced toward the submission and Federal approval of their management programs so they can move into the status of having an approved management program under section 306 of the act.

We are working with Federal agencies on their involvement in the process because under the provisions of the legislation, consistency is required of Federal actions that affect State coastal zones when the State has an approved program. Finally, we are working with a number of the States in connection with their interests in the estuarine sanctuary program which is authorized under legislation. I will come back to that program in more detail in a moment.

I would now like to turn to the specific amendments that are proposed in H.R. 16215 and comment on them. For this I will return to my formal statement.

The first proposed change would amend the act to remove the present 10-percent limitation on the amount of money any one State can receive compared to the total amount appropriated under section 306 management grants and replace it with a dollar limitation rather than the percentage limitation; $2 million for fiscal 1975, $2.5 million for fiscal 1976, and $3 million for fiscal 1977.

Mr. DOWNING. Is that for any one particular State?

Mr. KNECHT. For any one particular State; that is correct, Mr. Chairman, yes.

Just to explain the dollar figures, one could assume that the $3 million corresponds to 10 percent of the $30 million which is the amount authorized as a maximum for that section. In this sense it is consistent with the original construction of the act.

The amendment is designed to deal with an unusual situation that is expected to occur only at the beginning and the end of the section 306 part of the program under the act.

For example, the first year that 306 funds will become available, that is, this present year, it is likely that at most three or four States will be participating. Only three or four States are sufficiently far advanced to be in a position to submit programs for approval and therefore qualify for these grants.

This means that if each State were limited in its grant to 10 percent and we only have three States involved, that a maximum of 30 percent of the funds available for that year could be used.

The options are to either give grants that are only that small, on the one hand, or to request three or four times as much money as needed in order to have grants of an appropriate size.

The better way to go, and we agree with this amendment, is to remove the 10-percent limitation and replace it with a dollar limitation which is consistent with the intent of the original legislation.

The dollar limitations should continue the fiscal safeguards that Congress intended by the original percentage restriction.

The recent report of NACOA addressed this and also recommended that the allocation restrictions on 306 grants be revised.

Finally, I would like to make one additional observation in this connection. It should be noted the 1-percent minimum restriction on each grant is retained. However, we believe that this 1-percent floor should be left to the discretion of the States.

Those States with less coastal area might wish to design a program smaller in scope. Furthermore, the matching fund provision might prove a hardship on certain States and territories. Some of the very small States and territories might have a difficult time coming up with the matching funds required to match a full 1 percent. Therefore we would recommend additional language to the legislation pending before this body that would make the 1 percent discretionary with the States allowing this flexibility.

The second provision in the bill would raise the authorization level available to the States under the management program development grant portion of the act—section 305.

The higher level would provide additional and earlier fiscal flexibility to the Department of Commerce to enable States to develop their coastal zone management programs at a date earlier than required by the act.

As mentioned earlier, several States have a mandate to complete their program development efforts sooner than the 3 years called for in the act. The higher authorization level will assist them in accomplishing this.

In fiscal 1974, States received, on the average, 37 percent less than the amount applied for under section 305 of the act.

I would also like to mention that in looking back at the short history of the program we can observe that in the first year that the Coastal Zone Management Act was adopted no funds were made available to States, that is to say in fiscal year 1973.

Therefore, 1 year was lost in beginning the program which would also suggest that it is perhaps appropriate to consider a higher authorization.

Mr. DOWNING. Is that money available for distribution in this fiscal year?

Mr. KNECHT. There was no money requested by the administration and no money appropriated by the Congress for that year. The answer is "No."

The amount requested for this program in the administration's fiscal 1975 budget is within the current authorization level. Given the overriding need to control Federal spending, the administration believes an increase in the fiscal 1975 level is not desirable, and therefore these higher authorization levels are not necessary or appropriate at this time.

In developing the fiscal 1976 budget request, consideration will be given to the possible need for an increase in the funding level. If it is determined that an increase is appropriate, the administration will then propose an increase in the authorization level.

Concerning the third part of the proposed amendment, Mr. Chairman, as you know the States and local governments recognize that our coastal estuaries among the most valued parts of our Nation's land and water resources. They see them as the fertile nursery grounds for our rich and varied coastal fisheries; habitats and nesting places for water fowl and migratory birds.

It is true that these estuaries do offer bountiful opportunity for recreation and leisure time pursuits of many kinds; and under certain conditions, with proper environmental safeguards, they can support important economic and commercial activities.

To use these estuaries without destroying them, the States, and local governments, realize they must develop a keen understanding of how they function.

To obtain this information and employ it in State and local coastal zone management programs is the ultimate aim of the estuarine sanctuaries program.

The legislative history of the estuarine sanctuaries provision of the Coastal Zone Management Act, section 312, makes it clear that this element of the program was intended to serve as an integral part of the overall coastal zone management programs of our coastal States.

Therefore, the sanctuaries program was designed to provide States with long-range assistance in acquiring and operating natural field laboratories in which techniques and approaches proposed to be incorporated within their coastal management programs could be tested and perfected.

The Congress, in framing this legislation, felt it important that a system of estuarine sanctuaries be established and be representative of the principal types of estuarine systems found along our Nation's coasts, of which 11 broad types have been identified.

At present, 20 States have indicated a very positive interest in participating in the long-range development of estuarine sanctuaries programs.

Discussions with scientists indicate that 15 to 20 sanctuaries throughout the Nation would provide a comprehensive spectrum of research areas and at the same time provide for the necessary regional and natural differentiation.

The Office of Coastal Zone Management and the Department are now studying alternative overall national plans for the Nation's estuarine sanctuary needs to provide the basis for decisions on the scope of the Federal program.

When those studies are completed and evaluated we will then be in a position to propose specific legislative changes.

Meanwhile, the administration thinks it would be premature to simply extend the current authorization level for 3 years.

In summary, it is the position of the Administration not to object to the amendment to section 306(b) but to recommend against the enactment of the amendments to section 315(a).

Mr. Chairman, that concludes my remarks. I appreciate the interest and support of this committee in the efforts of the States and local governments, as well as NOAA, to properly manage one of this Nation's greatest resources, its coastlines.

I will be happy to answer any questions that the subcommittee might have, with regard to my statement or the program.

Mr. DOWNING. Without objection, Mr. Knecht, your full statement will be incorporated in the record at this point.

[The full prepared statement of Mr. Knecht follows:]

TESTIMONY OF ROBERT W. KNECHT, DIRECTOR, OFFICE OF COASTAL ZONE MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE.

Mr. Chairman and Members of the Committee, I wish to thank you for the opportunity to be here today and to testify on behalf of the Department of Commerce and the National Oceanic and Atmospheric Administration concerning H.R. 16215 which will amend the Coastal Zone Management Act of 1972.

To place this testimony in perspective, let me provide you initially with a brief progress report on the implementation of the Coastal Zone Management Act during FY 1974. If anything characterizes the short but interesting history of the Act it would have to be the enthusiasm of the states—enthusiasm over the provisions of the Act which gave them both financial and technical assistance in working with local governments to support mutual efforts in protecting and managing the Nation's coastal areas. Another provision to which the states have given significant attention is that which calls upon the Federal Government to align its activities that affect state coastal zones so that those activities are consistent with state coastal zone programs. A third provision of the Act of which the states are supportive authorizes grants to the states for the purpose of acquiring and maintaining estuarine sanctuaries to serve as natural field laboratories to assist in the development of coastal zone management programs.

As you may recall, Mr. Chairman, the Coastal Zone Management Act was passed almost two years ago and funding was made available in December, 1973. During the past nine months, the states have made excellent progress in implementing the Act. As of September 1, 1974, management program development grants under Section 305 of the Act have been awarded to 28 states and the Commonwealth of Puerto Rico. These are the states of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, Washington, Wisconsin, and Puerto Rico. In all, approximately, $7.4 million of Federal funds have been made available for matching grants to the coastal states and their subdivisions for the purpose of assisting them in developing management programs for their valuable coastal areas. One more state, New York, and one territory, the Virgin Islands, will join

the program shortly bringing the total amount of funds allocated to these 30 entities to $8.1 million. It is anticipated that the one remaining coastal state and two territories will be involved in the coastal zone management program during this fiscal year. Letters of intent have been received from Guam and American Samoa and a special site visit by Coastal Zone Management staff is being made to Indiana to provide technical support to assist that Great Lakes State.

Mr. Chairman, I would now like to direct the Committee's attention to examples of the efforts of some of the coastal states in their movement toward effective management of their coastal areas. For the sake of brevity, I will limit my remarks to only three of the states in the program.

California is an example of a state which had, through popular initiative, started the development of a planning and management program at about the same time as enactment of the Coastal Zone Management Act. Presently, there are three state agencies with coastal zone responsibilities in California. The California Coastal Zone Conservation Commission (CCZCC) and six sub-state regional coastal commissions established under its guidance, are charged with preparing a coastal zone conservation plan to be presented to the state legislature by December 1, 1975. The CCZCC has identified nine individual components which will constitute California's comprehensive coastal zone management plan. In part, these components include marine environment, coastal land environment, geology, energy, transportation, and intensity of developments. The Commissions have also been given authority over an interim permit control process to regulate development of a portion of the State's coastal zone. Permits must be obtained from the appropriate Regional Commission before development can begin in those areas. The planning activities of the CCZCC are presently being supported and encouraged by a $720,000 grant from NOAA, the maximum allowable under Section 305 of the Coastal Zone Management Act.

The Delta Advisory Planning Council is an advisory body to local and county governments in five counties comprising the San Joaquin-Sacramento River Delta area. The Council is preparing a comprehensive resource preservation and allocation plan, one part of which will recommend a program for permanent management of the Delta area.

A precursor of the Cailfornia Coastal Zone Conservation Commission is found in the Bay Conservation and Development Commission (BCDC), established in 1965 to prepare a management plan for the San Francisco Bay area. Pursuant to the plan adopated in 1969, BCDC was made a permanent agency and has regulatory authority and limited jurisdiction over certain functions in the Bay area.

Similar ambitious activities in coastal zone planning are also taking place on the East Coast and the Great Lakes. North Carolina, for example, has recently enacted comprehensive legislation mandating coastal zone planning and ultimate management with a strong local emphasis. The state plans to develop its management program by the synthesis of three distinct approaches: (1) implementation of the Coastal Zone Management Act; (2) utilization of state agency and university advisory services; and, (3) a strong emphasis on public involvement. North Carolina's efforts are paritcularly interesting because it plans to complete the development of its management program in 18 months—half the time allowed by the Coastal Zone Management Act.

Michigan currently has legislation on the books designed to move in the direction of management of its Great Lakes shoreline. In 1973, over 700 miles of Michigan's shoreline were designated as high-risk erosion areas. Presently, tasks being supported by a coastal zone management grant include a land and water use inventory, the development of a data management system, and a determination of future shorelands requirements for improved Great Lakes navigation. Progress toward an organizational structure capable of management program coordination and administration will be addressed primarily during the second program development year.

Mr. Chairman, these are just three examples of the kinds of activities now being undertaken in the Nation's coastal zone through the assistance and support of the Coastal Zone Management Act. I feel that they illustrate the viability and effectiveness of this relatively new but important program as well as the supportive response of the states to it. Clearly, the initial record of the Coastal Zone Management Act indicates that new directions in intergovernmental relations, in which the States are playing an important partnership role with the Federal Government, can work with proper Federal assistance. Our experience with the states in funding this first round of management program development grants

provides us with a good working knowledge of what the states and local governments are doing and what they need to carry this program forward. This experience has also altered us to three technical problems with the Act—problems to which the amendment before you today is addressed. We have submitted comments on these amendments through the usual channels.

The first of these changes which the amendment proposes would permit adequate funding of administrative grants under Section 306 of the Act when less than 10 states are participating in the grant program during a given year. The second change raises the authorization level for the management program development grants under Section 305 so that the States can fulfill unmet program development needs identified in their applications for funds under this part of the Act. The third change would extend the estuarine grant program and provide funding for this effort.

It is now appropriate that I treat each of these three changes in the Coastal Zone Management Act individually and in great detail.

The first proposed change would amend the Act to remove the present 10 percent limitation on the amount any one State may receive out of the total amount appropriated for Section 306 management grants and replaces it with specific dollar limitations for stated yearly intervals: $2 million for FY 1975; $2.5 million for FY 1976; and $3 million for FY 1977. This amendment is designed to deal with an unusual situation that is expected to occur only at the beginning and the end of the Section 306 part of the program. Not all States will complete their coastal zone management programs at the same time; in fact, only three or four are expected to be eligible for coastal zone program management grants in FY 1975. The present 10 percent limitation creates one of two possible alternatives—both undesirable. First, those States which complete their program early could be at a serious disadvantage by limitating the amount of Section 306 funds that they can receive. With, for example, only four applicants and each funded up to a minimum of 10 percent of the appropriation available, only 40 percent of the funds could be expended—thus shutting off the possibility of additional assistance for those states. Alternatively, it is conceivable that three or four times more money than would be required would have to be appropriated in order that the size of individual grants be large enough to cover administration of the management programs envisaged under Section 306.

To make a more equitable and complete allocation of grant assistance for management of coastal zone programs, the 10 percent limitation should be deleted and dollar limitations substituted therefor. These limitations should continue the fiscal safeguard that Congress intended by the original percentage restriction. The recent annual report of the National Advisory Committee on Oceans and Atmosphere addressed this problem and recommended that the allocation restriction on Section 306 grants be revised.

Finally, it should be noted that the one percent *minimum* restriction on each grant is retained. However, this floor should be left to the discretion of the states. Those states with less coastal area might wish to design a program smaller in scope. Furthermore, the matching fund provision might prove a hardship on certain states and territories.

The second provision in the bill would raise the authorization level available to the states under the management program development grant portion of the Act (Section 305). The higher level would provide additional and earlier fiscal flexibility to the Department of Commerce to enable states to develop their coastal zone management programs at a date earlier than required by the Act. Several states have a mandate to complete their program development efforts sooner than the three years called for in the Act. The higher authorization level will assist them in accomplishing this. In FY 1974, states received, on the average, 37 percent less than the amount applied for under Section 305 of the Act.

The amount requested for this program in the 1975 budget is within the current authorization level. Given the overriding need to control Federal spending, the administration believes that an increase in the 1975 level is not desirable, and therefore these higher authorization levels are not necessary or appropriate at this time. In developing the fiscal 1976 budget request consideration will be given to the possible need for an increase in the funding level. If it is determined that an increase is appropriate the administration will then propose an increase in the authorization level.

Concerning the third part of the proposed amendment, Mr. Chairman, as you know, the states and local governments recognize our coastal estuaries among

the most valued parts of our Nation's land and water resources. They see them as the fertile nursery grounds for our rich and varied coastal fisheries; habitats and nesting places for water fowl and migratory birds. It's true that these estuaries do offer bountiful opportunity for recreation and leisure time pursuits of many kinds; and under certain conditions, with proper environmental safeguards they can support important economic and commercial activities.

To use these estuaries without destroying them, the states, through local governments, realize they must develop a keen understanding of how they function. To obtain this information and employ it in state and local coastal zone management programs is the ultimate aim of the estuarine sanctuaries program.

The legislature history of the estuarine sanctuaries provision of the Coastal Zone Management Act (Section 312) makes it clear that this element of the program was intended to serve as an integral part of the overall coastal zone management programs of our coastal states. Therefore, the sanctuaries program was designed to provide states with long-range assistance in acquiring and operating natural field laboratories in which techniques and approaches proposed to be incorporated within their coastal management programs could be tested and perfected. The Congress in framing this legislation felt it important that a system of estuarine sanctuaries be established and be representative of the principal types of estuarine systems found along our Nation's coasts, of which 11 broad types have been identified.

Presently, 20 states have indicated a very positive interest in participating in the long-range development of estuarine sanctuaries programs. Discussions with national and state scientists and their technical staffs indicate that 15 to 20 sanctuaries throughout the Nation would provide a comprehensive spectrum of reearch areas and at the same time provide for the necessary regional and natural differentiation.

The Office of Coastal Zone Management and the Department are now studying alternative overall national plans for the Nation's estuarine sanctuary needs to provide the basis for decisions on the scope of the Federal program. When those studies are completed and evaluated we will then be in a position to propose specific legislative changes. Meanwhile the administration thinks it would be premature to simply extend the current authorization level for three years.

In summary, it is the position of the administration not to object to the amendment to Section 306(b) but to recommend against the enactment of the amendments to Section 315(a).

Mr. Chairman, that concludes my remarks. I appreciate the interest and support of this Committee in the efforts of the states and local governments, as well as NOAA, to properly manage one of this Nation's greatest resources, its coastline.

I will be happy to answer any questions from the Committee.

Mr. DOWNING. Mr. Knecht, I would like to take this opportunity to compliment you and the members of your staff. I think it has been a very smooth operation and I think that you have implemented it in accordance with the wishes of the Congress.

Mr. KNECHT. Thank you very much. We appreciate that.

Mr. DOWNING. Now, you do not object to the amendments to 306 but you do object to the amendment to 315 which would increase the authorization from $9 million to $12 million.

Mr. KNECHT. Mr. Chairman, yes; our statement represents the administration's position which has been formulated taking into account the overall current financial condition and the state of the economy in the Nation and reflects the administration's efforts to control inflation by controlling the federal budget.

Mr. DOWNING. Did you use all of the money which was appropriated for the last fiscal year?

Mr. KNECHT. No; we did not. We developed a plan that involved using the major portion of it and our plan was fully fulfilled.

That is to say, Mr. Chairman, of the moneys that were made available for section 305, that is to start the States on the planning process, all but $643 of those $7.2 million were used for that purpose.

With regard to the estuarine sanctuaries provision which is the kind of program that takes a longer period to gear up we had had a goal of funding one sanctuary grant and such was funded, an $823,000 grant to the State or Oregon to develop an estuarine sanctuary in the Coos Bay area.

In that connection I would like to add that we now are in active and detailed discussion with nine States concerning estuarine sanctuary proposals that they are developing. These include the States of Hawaii, Georgia, Ohio, Maine, California, South Carolina, North Carolina, Virginia, and the State of Washington.

When we tally up the amount of funding that will apparently be required to satisfy just these requests—and these represent less than half of the States that are interested—this totals more than three times the $3 million that remains available from last year.

Mr. DOWNING. If the increased sum of $12 million was authorized and appropriated could it be utilized effectively?

Mr. KNECHT. Yes; it could in my personal judgment.

Until we understand how the estuaries work and have selected samples of them available on a long-term basis. I think we jeopardize our efforts to manage the remaining estuaries and shorelines of the Nation.

Mr. DOWNING. Would you care to comment on Senator Aiken's proposal to include States bordering Lake Champlain?

Mr. KNECHT. Yes; we have looked at that proposal and in a number of aspects it would appear to make sense.

For example, Lake Champlain forms a natural part of the inland seas formed by the Great Lakes and the interconnecting waterways. Its drainage flows into the St. Lawrence as does the Great Lakes drainage. It is part of the total hydrological complex.

It has one additional advantage. It would bring Vermont into the New England grouping as a coastal State. At the present time all of the New England States are considered coastal because of their geography and they are working closely on a regional basis to attack the problems in that area. It would make sense to have Vermont included in that regional grouping.

Mr. DOWNING. How many States are now included in the term, "Coastal States"?

Mr. KNECHT. There are 30 States, Mr. Chairman, and four territories. That includes, of course, the Great Lakes States.

Mr. DOWNING. Thank you, very much.

Mr. Mosher?

Mr. MOSHER. Thank you very much, Mr. Chairman.

Mr. Knecht, I am sorry I arrived late so I did not hear the full statement you made, but I certainly join with your comments, Mr. Chairman, associating myself with you in congratulating Bob on the start they have made. It is a very encouraging start.

Bob, do I judge accurately that the administration objects to part of this legislation; that is, you are distinguishing that from the attitude of your own department?

You are making the point that the objection of the administration is strictly on the basis of necessary budget constraints and that the administration is not objecting on the basis of substantive matters?

I assume you and your people would strongly support this legislation as it is if it were not for the budget constraints, is that right?

Mr. KNECHT. Well, Mr. Mosher, we could be expected to be the strongest proponents of this program since that is our principal responsibility at the present time.

Obviously, a kind of balancing has to take place at higher levels with the conflicting needs for resources at the present time.

To follow up on that, we now have in hand the requests from the States; that is, their estimates of what they will need for the second year of funding under section 305 and those requests total about $11 million, I believe. These are not casually determined. These fiscal projections were a part of their management grant applications to us and I think were carefully determined; that is $11 million compared to the $9 million which is currently authorized and therefore, the limit on what can be made available.

If only $9 million remains available then it means that States will receive less than they need to complete their programs expeditiously which probably implies a longer period to develop and implement programs. One has to ask is this the right direction at a time when important national concerns such as the Outer Continental Shelf oil and gas, extraction, siting of energy facilities off the coast and so on are really demanding more effort, rather than less.

Mr. MOSHER. You referred to the fact that at least 20 States are expressing a very great interest in the estuarine sanctuary opportunities.

Included in those 20 are there any Great Lakes States?

Mr. KNECHT. Oh, yes. Let me refer to my list of the 20. Of the Great Lakes States, only Indiana and Minnesota have not shown an interest and are not included among the 20.

That does not mean there is a negative feeling. It is just that they have not responded as yet.

Mr. MOSHER. Now you speak of studying alternatives for an overall national plan with the Nation's estuarine sanctuary needs, to provide the basis for decisions on the scope of Federal programs.

Do you want to expand on that a little bit? What are you talking about?

Mr. KNECHT. In our discussion with OMB and our management in the Department of Commerce, they are asking questions like this: They would like us to describe the kind of program you could have for $4 million which is the amount of money so far appropriated for this purpose, the kind of national program you might have for several intermediate levels and then what might be obtained for an optimum size of the national program.

They would like to see what you get for the Federal investment at various levels; what the long term operational implications are, the annual expenses that might fall to be Federal Government and so on.

They want to look again at what the appropriate size is and how much will it cost and is it worthwhile from the standpoint of the larger picture.

The scientists so far have suggested there are 10 to 15 types of estuaries that ought to be included in a system that is nationally representative.

We feel by the time you get the subtypes and the subtle variations in that probably an overall program of about 20 would be required

and that does match approximately with the number of States that are interested.

They want to see more supporting information for that view.

Mr. MOSHER. Well, I guess that is necessary and proper. You wind up with some options then, I would judge.

Mr. KNECHT. Yes, that is right. We will display options as a result of that study.

It is the view at the working level that the situation is somewhat clearer than that, even at the present time. You can look at the Nation's shoreline and recognize that there are important differences between estuaries along the coast of Maine, in southern New England, along the mid-Atlantic coast, in Florida, along the Gulf coast and along the northern and southern west coast. We know roughly what price tag is going to be associated with the acquisition of each of these based on our experience in the Oregon case and based on similar programs in other Federal agencies.

We know, the Federal investment is going to average of the order of $1 million for each sanctuary. You do not have to a lot of analysis to get such rough answers.

Mr. MOSHER. I had not heard until just now about this recommendation from Senator Aiken concerning Lake Champlain.

If Lake Champlain was specifically included, what kind of precedent would we be setting there? There must be a great many other lakes, are there not, a large number of other lakes as large as Lake Champlain in addition to the Great Lakes?

Mr. KNECHT. One would have to be concerned about that.

It would seem the case could be made that this was a unique situation and the only one of its kind because of the close interconnection between the Great Lakes and their interconnecting waterways and Lake Champlain.

Mr. MOSHER. Well, I agree with the chairman that we like the enthusiasm with which you folks have taken hold here and presented your views and we think you are off on the right track.

Mr. KNECHT. Thank you.

Mr. DOWNING. Mr. Anderson?

Mr. ANDERSON. Thank you, Mr. Chairman.

Mr. Knecht, on page 1 you say:

> Another provision to which the states have given significant attention is that which calls upon the Federal Government to align its activities that affect state coastal zones so that those activities are consistent with state coastal zone programs.

Now, that is all you said about that. I have one of the proposed amendments which would provide that no permit or authorization could be approved by Federal departments seaward of a State established marine estuarine sanctuary developed, unless first approved by the State.

Do you have any comment on that? We have a particular problem in California where we have seven State marine sanctuaries along our coast to protect the environment. But outside the 3 miles, the Federal Government comes in and issues oil drilling permits just outside the 3-mile limit. That practice has presented problems in the Santa Barbara area; and our feeling is that where a State has gone

to the expense of conducting a study, and setting up a sanctuary, and just because State jurisdiction stops at 3 miles, the Federal Government should not disregard the State approved plan.

Mr. KNECHT. It is an interesting observation, Mr. Anderson. I have before me a copy of your bill.

Mr. ANDERSON. The bill is H.R. 16411.

Mr. KNECHT. Right. It is my personal feeling that the Coastal Zone Management Act was designed to accomplish a similar purpose, but more comprehensively. One can read the Coastal Zone Act to require that Federal actions that affect the States' coastal zone, not necessarily within it, but that affect it, are to be consistent with the State's program if the program has been approved at the Federal level.

Forgetting the California situation for the moment, anticipating future situations where a State would have a federally approved management program in being and operational, then it seems to me that the State has additional leverage in dealing with the Federal Governmen with regard to proposed Federal activities even though they were outside the State's coastal zone if it could demonstrably be shown to affect that State's program.

It seems to me that is an appropriate objective and one that I hope can be achieved by coastal States under the Act.

Mr. ANDERSON. Well, we have the act in effect now, and we had the program in California even prior to this act and yet, the Federal Government, through another department, is proceeding right now with further exploration for additional oil drilling just offshore of these State sanctuaries.

We have the additional leverage that you are talking about but it means nothing when we are dealing with another branch of our Federal Government.

Mr. KNECHT. The additional leverage that I was referring to only comes into effect when the State has an approved management program which is not yet the case in California or any State under the terms of the Coastal Zone Act.

Mr. ANDERSON. Do you not think it would be much simpler to recognize the fact that where a State marine sanctuary has been established, that that sanctuary should be recognized by the Federal Government, and that we put that provision into Federal law and that it remain in effect, unless the Governor releases it? I believe that policy would be advantageous to all concerned.

Mr. KNECHT. I agree with the underlying point that you are making. There should be closer cooperation on these matters between the Federal and State Governments and to that point we are working with the Interior Department now concerning a more direct and immediate State role in such matters as offshore oil and gas leasing. Unfortunately, it may be more applicable to the east coast situation rather than the west coast simply because of the timing.

Mr. ANDERSON. Are you making any progress at all with the Interior Department in protecting our marine sanctuaries in California?

Mr. KNECHT. We are actively having discussions with them.

Mr. ANDERSON. My feeling is we should write this into law and I am going to press for an amendment in the bill when it comes up.

Mr. DOWNING. If the gentleman would yield, I hope he does not offer it as an amendment to this bill. I can assure the gentleman that we can hold hearings on your bill as a separate measure.

Mr. ANDERSON. Why would it not be appropriate to write it into this bill? It seems to me it fits in with what we talk about in the initial act—that is, to get the Federal and State Governments working together.

I know in California we are doing a good job in trying to protect our environment and yet the Interior Department disregards all that we have been doing and are moving ahead with oil development right off the sanctuaries just as if they were not there.

Mr. DOWNING. I think it is a matter of such serious nature that it deserves a separate hearing. However, the gentleman can do whatever he wants.

Have you finished?

Mr. ANDERSON. Yes.

Mr. DOWNING. Mr. Forsythe?

Mr. FORSYTHE. Thank you, Mr. Chairman, and I would join those who have complimented you on the way this program has moved, Mr. Knecht. What you have done so far is just great.

I think you referred to 31 out of 34 entities that have already started some movement in this. Do you have the information as to the three who are not?

Mr. KNECHT. Yes, I do. Two of the three have indicated in a letter of intent to join the program during the current fiscal year. They are Guam and American Samoa.

The remaining coastal State is the State of Indiana. We have had discussions in the past and so far it has apparently been a problem between the local government along the southern shore of Lake Michigan and the State government. We are hopeful that those problems will be straightened out and that Indiana will see fit to join the program later this fiscal year.

Mr. FORSYTHE. I wanted to be sure it was not New Jersey.

Mr. KNECHT. No, New Jersey is pursuing the program aggressively having passed two very important State pieces of legislation within the last year—a wetlands act and a facilities siting act which I think will be keystones in their overall State program.

Mr. FORSYTHE. Thank you.

The apparent problem with OMB with regard to 315 (a) and (b) to me seems something that perhaps this committee ought not to be as concerned with as the Appropriations Committee.

Thank you, Mr. Chairman.

Mr. DOWNING. Mr. de la Garza?

Mr. DE LA GARZA. Thank you, Mr. Chariman.

Mr. Chairman, I want to join with you in emphasizing the good job Mr. Knecht and his agency have been doing.

I also understand, and I apologize for being late, that you have included in the record the letter from the Coastal States Organization from my former colleague and dear friend, Senator Schwartz of Texas.

My question, Mr. Knecht, is—and I know that you might have different agency opinions as to the restrictions imposed monetary-wise which the overall administration has placed—but to me this morning you are the administration.

Would it not be wise to authorize the $12 million and then see where we stand in the overall fiscal picture with our new budget com-

mittee that will ultimately hopefully, arrive at a balanced budget? Would you not go along with that theory?

Mr. KNECHT. If the authorization were increased it would not be sitting right on top of the amount that is appropriated. There would be additional breathing space when and if it becomes clear that a larger appropriation is needed.

However, looking at me as the administration, I will refer to the position taken in my statement.

Mr. DE LA GARZA. Well, I can understand that but I hope that we might not. All of us are as concerned as the administration on the fiscal situation and I think everyone will try and be as responsible as possible, but there are some things that have to be done and you would not be out recommending a veto should we authorize the larger amount, would you?

Mr. KNECHT. From the standpoint of the program; no, sir.

Mr. DE LA GARZA. I will withdraw my question.

The other question I have is on the estaurine sanctuary program. I know that you are conducting studies and you are evaluating but do you not think it would be wise for us to have a simple extension while you continue your evaluation and investigation and have the legislation available for you should you finish promptly before we have time in the next session to organize, and come back, and so on?

Mr. KNECHT. I think it would provide a measure of encouragement and confidence to the States that are now diligently developing their proposals.

It would indicate to them that the possibility, at least, of extending the program and having funds available at a later date whereas now there is a substantial amount of uncertainty with regard to that.

Mr. DE LA GARZA. Now I am sorry I do not have the information so I am looking to you for guidance, that is on the legislation and the specific amounts. What was it, $2.2 million and $3 million that would be per State?

Mr. KNECHT. Is this on the sanctuaries?

Mr. DE LA GARZA. Yes, section 306.

Mr. KNECHT. Section 306?

Mr. DE LA GARZA. Yes.

Mr. KNECHT. $2, $2.5, and $3 million—that is right.

Mr. DE LA GARZA. Will every State, according to the information you now have, be able to live with this amount?

Mr. KNECHT. Yes. That amount corresponds with the amount that we would expect would be required to meet State needs during that time period.

Mr. DE LA GARZA. Then your projection would be satisfied with these amounts, per State?

Mr. KNECHT. Yes.

Mr. DE LA GARZA. Thank you, Mr. Chairman. Thank you very much, Mr. Knecht.

Mr. DOWNING. Mr. Lagomarsino?

Mr. LAGOMARSINO. I am sorry, Mr. Chairman but I have not been here long enough to ask any questions.

Mr. DOWNING. Counsel?

Mr. HEYWARD. Mr. Knecht, I would like to go back to the appropriations history, so to speak. In your fiscal 1974 appropriation, you had a total of $12 million, I believe.

Mr. KNECHT. That is correct.

Mr. HEYWARD. Including the $7.4 million for development grants.

Mr. KNECHT. $7.2 million.

Mr. HEYWARD. Under section 305.

Mr. KNECHT. That is correct.

Mr. HEYWARD. $4 million under section 312.

Mr. KNECHT. That is right.

Mr. HEYWARD. And the balance for administration.

Mr. KNECHT. Yes.

Mr. HEYWARD. Now that compares with an authorization of $9 million plus $6 million plus $3 million.

Mr. KNECHT. That is right.

Mr. HEYWARD. So the appropriation for fiscal 1974 was about two-thirds of the authorization.

Mr. KNECHT. That is correct.

Mr. HEYWARD. And for fiscal 1975 you have the continuing authorization for all parts except estuarine sanctuaries.

Mr. KNECHT. Correct.

Mr. HEYWARD. What is the President asking in the fiscal 1975 budget for section 305 money and administration funding?

Mr. KNECHT. He is asking for $9 million for section 305 which is the maximum authorized at the present time and the other item was for internal operating expenses, $900,000.

Mr. HEYWARD. So that your total request this year then is approximately $10 milliion out of an authorization of $12 million?

Mr. KNECHT. No, there is the third component, section 306. We have also requested $2.1 million for section 306 for a total of $12 million.

Mr. HEYWARD. Anticipating 306 administrative grants then you have what?

Mr. KNECHT. $2.1 million, for a total of $12 million.

Mr. HEYWARD. Are you satisfied with the authorization under section 306 at the current level?

Mr. KNECHT. $30 million? It is a little too early to tell.

For example, had you asked me a year before any State received 305 money whether or not the $9 million would have been satisfactory, it would have been hard to know because there was no experience.

Now we find that the $9 million maximum is under pressure so it is similarly difficult to know whether $30 million is enough to fund the operation of approved programs.

It seems to me to be a good initial starting point, however.

Mr. HEYWARD. You state that the States requests indicating State willingness to commit their funds in your first year of experience could not be met to the tune of approximately 37 percent.

Mr. KNECHT. Correct.

Mr. HEYWARD. What would be the effect of maintaining the $9 million authorization, assuming that the full funding available, what would be the effect of keeping the authorization at $9 million, funding it at $9 million as you have proposed, on State requests coming in for the second year program, percentagewise or moneywise, either way?

Mr. KNECHT. It would be the difference between $11 million and $9 million.

Essentially, $2 million would remain unfunded out of the total, so this is 20 percent or so.

Mr. HEYWARD. Now, is not the effect of this going to be a requirement that this program be stretched out rather than funded and moved forward at the pace at which the States are willing to operate?

Mr. KNECHT. It could be either of two effects it seems to me, Mr. Heyward.

The request to stretch the program forward over a longer period or conceivably a reduction in the comprehensiveness or the quality of individual State programs that might be able to be completed in the required time. If the programs fell below the approval threshhold, then obviously the overall objective would not have been reached.

Mr. HEYWARD. Is it not true that since this act was passed extreme pressures are being put on the coastal States because of the initiative to expand drilling on the Continental Shelf?

Mr. KNECHT. That is clear, absolutely. The Outer Continental Shelf oil and gas pressures are plainly obvious and will increase with time, especially along the Atlantic seaboard, Alaska as well as California.

The pressure to site additional electrical generation facilities in the coastal areas will also increase and the pressures for the deep water ports are with us already.

I think perhaps the results coming out of the Law of the Sea Conference, assuming it is successful, will further increase the pressures for rational management of the coastal areas of the country. I agree.

Mr. HEYWARD. As a representative of the administration, could you say if Federal funding was unlimitedly available that the authorization under this act could be increased?

Mr. KNECHT. I am not sure I understand the question.

Mr. HEYWARD. I am making a very foolish assumption that there is plenty of money to go around.

Mr. KNECHT. That is certainly not the case.

Mr. HEYWARD. I realize that, but if you can shift into that situation and plenty of money was available, would the administration support an authorization increase?

Mr. KNECHT. I think there is a growing realization within the administration that this is a program and approach whose time has come and that it should be supported.

Mr. HEYWARD. Would it not assist the administration in so-called self-sufficiency by 1980?

Mr. KNECHT. It is my opinion that would be the case.

Mr. HEYWARD. In connection with this act is not this act the only piece of legislation in place to respond to the pressures on the coastal States for these various activities offshore?

Mr. KNECHT. The only one I know of, yes. I would agree with you on that.

Mr. HEYWARD. Now, following up Mr. Anderson's question, in connection with his proposal under H.R. 16411, what would be the impact, in your opinion, of an approved State management program in the State of California as to what would happen to the offshore drilling activities off the marine sanctuaries in California once that program is in place?

Mr. KNECHT. And approved?

Mr. HEYWARD. And approved federally.

Mr. KNECHT. Mr. Heyward, since that question has legal implications, I will ask our deputy general counsel Mr. James Brennan to join me and to respond to that question.

Mr. BRENNAN. Section 307 provides that in the approval of a State program, local and regional interested agencies would be consulted so I would presume that as a program is developed and, in cooperation with the Federal Government, we would come to a program that would be recognized on a local, regional, national level as the appropriate program.

Having approved that program, the Coastal Zone Management Act goes on further to provide that any Federal agency undertaking activities which would directly affect the coastal zone of the State having an approved program would, to the maximum extent practicable, assure that its activities are consistent with that program. I think that we would feel that it would be required for any agency to make sure that its activities are consistent, having the assurance that the program itself was developed in accordance with the guidelines that we published.

Mr. HEYWARD. Would you not agree then that the input from the State of California, as far as drilling off California outside the marine sanctuaries is concerned, would be much stronger since it would be based on specific legislative requirements.

Mr. BRENNAN. I am not sure I understand you.

Mr. HEYWARD. I am saying that, without an approved program, California does not have the legislative sanction that this act gives them.

Mr. BRENNAN. That is correct.

Mr. HEYWARD. To require the Federal Government to operate its programs off California at least to the maximum extent practicable.

Mr. BRENNAN. That is correct.

Mr. HEYWARD. Would not an increase in the authorization then be to the benefit of the State of California in this particular aspect in order to complete their planning process at the earliest date possible.

Mr. BRENNAN. Well, national considerations aside, I think it is clear that each State would feel that it would be beneficial to have more money available to develop the program at a pace that it considers to be the optimum pace.

Mr. HEYWARD. Let me ask you one other question. Are the States themselves, under their own decisions, attempting to speed up these programs to get them in place as early as possible?

Mr. KNECHT. Yes, certainly that is the case.

The California initiative proposition passed also in the fall of 1972 requires that the statewide coastal commission submit a plan for legislative consideration by, I think, January of 1976.

North Carolina, as mentioned before, has passed legislation giving its coastal zone commission 18 months to develop and submit a management program.

Other States similarly have adopted shorter timetables, Mr. Heyward.

Mr. HEYWARD. Well, the State legislatures in looking at this problem have, in effect, told their operating agencies to move forward with dispatch.

Mr. KNECHT. Yes.

Mr. HEYWARD. Would the Federal funding constraints then be counter to what the States were attempting to do to get their programs in place?

Mr. KNECHT. I think so.

Mr. HEYWARD. As far as your proposal in connection with the minimum of 1 percent, I understand that that creates the problem with the possibility of a couple of the territories in particular coming under the program, since there is a minimum grant requirement of 1 percent of the appropriated funds. You would like to make that more flexible.

Do you have some specific language which you could suggest?

Mr. KNECHT. I do not have it in front of me at the moment, but we would have it for you, certainly.

The case in point would be the Virgin Islands. For example, with a $9 million appropriation this year for section 305, we would be required to give them no less than $90,000 and yet, they have only asked for $60,000 or $70,000.

Mr. HEYWARD. In other words, in order to participate at all we are requiring them to take more money than they need. They probably could find ways to spend it, but the problem is they have to have a higher amount for State matching as well which could cause a problem.

It also diverts funds from other people who really need it, does it not?

Mr. KNECHT. That is right.

Mr. DOWNING. Why do we not limit that requirement?

Mr. KNECHT. We would be happy to provide that language to you.

Mr. DOWNING. I wish you would.

Mr. HEYWARD. That is all.

[The amendatory language follows:]

SUGGESTED AMENDATORY LANGUAGE

A BILL To amend the Coastal Zone Management Act of 1972 to provide more flexibility in the allocation of program development grants to smaller coastal states, and for other purposes

Be it enacted by the House of Representatives and the Senate of the United States of America in Congress assembled, That the Coastal Zone Management Act of 1972 (86 Stat. 1280) is amended as follows:

Subsection (e) of section 305 is amended by striking all the words after "*Provided, however,*" and inserting in lieu thereof the words:

"That no management program development grant under this section shall be made in excess of 10 per centum of the total amount appropriated to carry out the purposes of this section nor less than 1 per centum of said total amount unless a state requests a lesser amount."

Mr. DOWNING. Minority counsel have any questions?

Mr. BEDELL. No questions.

Mr. DOWNING. Mr. Anderson?

Mr. ANDERSON. Following counsel's remarks, I would like to direct a couple of further questions to you.

What is the status of approval of the program in California? In other words, how soon can they proceed legally as a result of proposition 20?

Mr. KNECHT. In December of 1975 or January of 1976 the Commission has to complete its program and submit it to the legislature.

Mr. ANDERSON. For 1976?

Mr. KNECHT. Yes, sir.

Mr. ANDERSON. So that would mean then that even though California's program was good as far as you are concerned, and from

the way I read your remarks, you do approve of our program right now as an example, nevertheless you legally cannot approve it until 1976.

Mr. KNECHT. Well, we cannot approve it until it is submitted to us for approval.

Mr. ANDERSON. When would that be?

Mr. KNECHT. That depends on the State. There is no indication that that submission is pending at this moment.

As I understand it, the State commission is in the process of completing the major elements of the plan.

They have at least 1 year of work to wrap that up. Then there are some technicalities that will have to be faced.

The statewide commission under proposition 20 does not include all of the State's coastal zone under the Federal definition.

Mr. ANDERSON. There was one exemption; the BC/DC.

Mr. KNECHT. Yes; the BC/DC and there maybe a problem with the Sacramento River Delta that may have to be dealt with.

We will have to take a slightly broader view than the State commission.

Mr. ANDERSON. During the time proposition 20 was being drafted, our office worked very closely with the State Drafting Committee because we wanted them to dovetail their work with us as much as possible. We think we did coordinate our efforts so that when we do get our legislation through, it will fit quite well with the State bill.

I think the thing I am trying to find out for practical purposes is whether or not you can approve our State program before 1976. If not, then there could be an awful lot of oil wells drilled off those sanctuaries by 1976.

Mr. KNECHT. As a practical matter I think your timetable is correct.

Mr. ANDERSON. That is what I am concerned about. We have a time problem. The people in the State of California are not delaying this process, they are moving as fast as they legally can to comply with the act we drew up.

The act was drawn up to a great extent as a result of our initial legislation while it was in process. We would like to protect those marine sanctuaries between now and the time that the State plan can be approved.

Then, of course, counsel's comments on the words "directly effect," although he did not make very clear whether the words "directly affect" would go outside the 3-mile limit to 6, 7, or 8 miles offshore. That is another area that I am concerned with.

That is all I have.

Mr. DOWNING. I would like to assure the gentleman that we can attempt to expedite hearings on his bill. We ought to have some statement from our Federal agencies.

I am afraid that amending this bill may possibly jeopardize passage. This bill is simply an extension and maybe an increase in authorization.

You have made your point there, but I can assure the gentleman we will hold hearings on that very soon.

Mr. ANDERSON. Then let us have a hearing on it.

Mr. DOWNING. Mr. Knecht, thank you so much for appearing here this morning. I wish you would tell your associates and employees this committee thinks they are doing an excellent job and keep up the good work.

Our next wintess is Mr. William D. Marks, chief, Water Development Services Division, Department of Natural Resources, State of Michigan.

Mr. Marks, you may proceed.

STATEMENT OF WILLIAM D. MARKS, CHIEF, WATER DEVELOPMENT SERVICES DIVISION, BUREAU OF WATER MANAGEMENT, DEPARTMENT OF NATURAL RESOURCES, LANSING, MICH.

Mr. MARKS. Thank you, Mr. Chairman. I appreciate the opportunity to be here this morning and would submit a prepared statement for the record and I will briefly summarize it then.

Mr. DOWNING. Your prepared statement will appear in full in the record following your oral presentation.

Mr. MARKS. I think at the outset I would like to echo what several have said this morning.

The need of the coastal zone management program has greatly accelerated in the 2 years since it was passed. The situation that the energy crisis has brought about, and many other things going on and the increase in overseas export of farm products has also created additional pressures.

Certainly, on the Great Lakes the navigation situation has changed rather radically in the last 2 years.

We are now getting Western coal moving down the lakes which is a reversal of a century old trend.

The production of iron in the upper Great Lakes has greatly expanded.

The shipyards on the Great Lakes are booked solid beyond 1980. I mean, Mr. Chairman, that their total yards are committed.

We are experimenting with winter navigation.

In addition to these kinds of problems on the Great Lakes we are having very serious problems with erosion and flooding.

The Great Lakes are entering their fifth year of above normal lake levels. We have about 700 miles in Michigan that are subject to critical erosion and nearly 1,000 homes are jeopardized.

We had some very serious flooding last year and again this summer. Sometimes up to 20,000 people have had to be evacuated.

I think one case illustrates the need more than anything else for a sound coastal zone management program. In two areas in Michigan and one in Ohio we have spent over $50 million in Federal and some State disaster relief funds, which only alleviated or provided temporary solutions to problems created by Great Lakes flooding.

This $50 million is gone and not one cent of it for a permanent solution. The people are still living in their homes. Some have collected three times on flood insurance.

We have a community in Michigan where the assessed evaluation estimate is $1.2 million and $1.5 million has been spent on temporary relief, and during the next period of high water, the cost will be greater.

I think there are many pressures on the Coastal Zone Management Act and the other thing that is very significant in our mind in Michigan is that we have had a somewhat similar history of proposed land use legislation at the congressional level.

In Michigan it got pretty far along, but did not quite make it; so the Coastal Zone Management Act is the Land Management Act left and I think it is critical that we are able to demonstrate that this program can work.

As far as the amendments you are considering here today in H.R. 16215 as indicated in the title of the bill, it is to provide more flexibility which is consistent with our understanding of the nature of the program concept created by the Coastal Zone Management Act.

The events of the 2 years since the passage of the Coastal Zone Management Act have greatly accelerated both the need for coastal management as well as additional flexibility and increased funding in certain areas of program development.

The existing provision in subsection (b) of section 306, limiting administrative grants to 10 percent of the amount appropriated, does not seem realistic in the light of the way that the program is developing.

For a variety of reasons, the States will not move forward at a uniform pace. Recognizing this, along with the fact that some States must speed up their programs to meet previously unforeseen events of the energy situation, the proposed change in allocation of section 306 grants is sound.

Those States in position to move into management programs should be encouraged to do so.

The proposed amendment to amended section 315 to increase 305 funding from $9 million to $12 million is strongly supported.

It is our understanding that the first requests of the States for 305 grants substantially exceeded the amount available.

As with most new programs, it is difficult to anticipate fully the ramifications of what is necessary to accomplish the goals to which we strive.

Because these goals are shared by a substantial segment of society, and more importantly because a sizable share of society will also be involved in implementing these goals there are no shortcuts, no expedite methods.

Program development is complex—more complex than probably many of us envisioned at the outset. Additional funding is necessary and warranted.

The proposed amendment to extend the funding for estuarine sanctuaries will, we hope, receive the endorsement of this committee as the first step in full congressional approval.

It seems somewhat ironic that a concept which has been operative but for 4 months has, in reality, already been terminated.

It seems that many have been reading section 312 of the Coastal Zone Management Act without fully realizing the implications of section 315 (a) (3).

The goals of creating estuarine sanctuaries for the purpose of creating "natural field laboratories to gather data and to make studies of the natural and human processes occurring within the estuaries of the Coastal Zone" should be a part of a coastal management heritage.

The significance of being able to demonstrate the achievement of a successful coastal management program, in our view is very crucial.

The future of cooperative governmental action and of land management can be influenced to a marked degree by how well coastal management succeeds or fails.

If it is to succeed it will require patience, tact, education, and understanding on the part of three levels of government.

The process must be afforded the time and effort necessary to assure at least a reasonable chance of success.

In conclusion, Mr. Chairman, I would like to echo what most of you have already said about the way the coastal zone management program has been implemented by Mr. Knecht and his staff.

The agency that I represent in Michigan is one of those States that has reorganized most of its natural resources functions into a single department, so that almost everything in the natural resource area from pollution abatement to land use, recreation, fish and wildlife management are all in one agency and there is no other single program that we deal with that has provided the flexibility and ability to work with the States than Mr. Knecht has.

Thank you, Mr. Chairman.

[The full prepared statement of Mr. Marks follows:]

STATEMENT OF WILLIAM D. MARKS, MICHIGAN DEPARTMENT OF NATURAL RESOURCES

I am appearing here today on behalf of the State of Michigan and also on behalf of the Coastal States Organization of which I am a member of the Executive Committee and immediate past vice-chairman.

We in Michigan are vitally interested in the National Coastal Zone Management Act due to our responsibilities to plan, manage and preserve a large share of the Nation's fourth seacoast—the Great Lakes. Michigan and the Great Lakes are intricately intertwined in history, culture and economy. Forty-one percent of the entire area of the Great Lakes lie within Michigan's boundaris. Four of the Great Lakes form over 3,000 miles of Michigan shoreline.

These great inland seas are impressive in size, unsurpassed in beauty, and a dominant element in the geographic structure of North America. Within this great physical matrix lies the industrial heartland of this nation, one of the major socio-economic complexes of the world. Unfortunately, the transformation of the resources of the Great Lakes Basin into a contemporary complex of industries, farms and cities has not been achieved without accompanying problems—some of which are most obvious and also complex in coastal or shoreland areas.

Shoreline erosion is presently one of our most pressing problems. The Great Lakes, in spite of comparatively small drainage basins and large storage capacities, have constricted rivers at most of the lake outlets which cause significant fluctuations in lake water levels during times of abnormal precipitation. Lakes Michigan and Huron, for example, are new six feet higher than they were a decade ago.

High lake levels whipped by storm winds have produced severe erosion and flood damages to shore properties. Additionally, the problem is further compounded when heavy winds push large amounts of ice upon the shoreline. Presently, over 700 miles of Michigan shoreline is being subjected to critical erosion and 300 additional miles are susceptible to flooding. In two separate storm occurrences (November 1972 and March-April 1973) some 12,000 individuals were evacuated from shoreline areas of Lakes Erie and St. Clair and their connecting waters because of flood conditions. Public expenditures related to shoreland flooding in these areas approached $46 million for the period roughly from the fall of 1972 to mid 1973. This amount includes federal loans and grants, state and local disaster relief expenditures, flood insurance claims, expenditures by the Corps of Engineers for Operation Foresight, and other state and local expenditures for shoreland protection.

From the erosion standpoint, high lake levels for the past five years have created erosion damages of disaster magnitude, ranging into the 10's of millions of dollars each year. We estimated that 1,000 dwellings are currently faced with risk of total loss in a major storm. We are aware of some 40 houses that have been destroyed in the last three years and many others have been moved landward to avoid destruction. In some areas nearly 100 feet of land has been lost since 1969; losses of 10 feet per year are common in many locations.

While damages from flooding and erosion represent issues of crisis proportions, there are a host of other problems which in the aggregate pose a serious threat to the continued integrity and vitality of the shorelands. An increasing array of use and development pressures are focusing on the shorelands due to their attractiveness and utility to satisfy public needs and desires. Recreational cottages and condominium developments have greatly multiplied. Increased public participation in boating, camping and all terrain vehicle use has overtaxed available facilities and also created new types of management problems. The dollar value of shoreland property has escalated due to demand and this has tended to discriminate against open space preservation efforts and the acquisition of additional lands by public agencies for recreational areas, access sites, marinas and launching facilities, etc.

Although Michigan's shorelands are facing very strong demands for recreational and residential developments, over much of the shoreland area local planning, zoning and health, safety and sanitary regulatory programs are non-existent or minimal due principally to the rural nature of the area.

In urban areas, a major concern is the need to rehabilitate shoreland areas through redevelopment. Urban waterfronts often suffer from blighted conditions and dominance by older industrial and commercial structures which may no longer be economically viable. Conversely, such areas can offer significant recreational and open-space potential due to their proximity to large population centers.

A further major need is to ensure the protection of shoreland wildlife and fisheries resources. Certain shoreland areas possess outstanding ecological significance and, at the same time, are highly susceptible to degradation and destruction through indiscriminate use and development. Such areas, for example, may serve as critical breeding, resting and feeding locations for migratory waterfowl. Considerable effort is being expended at present to rejuvenate the fishery resources of the Great Lakes through the introduction of salmon and other species, lamprey control programs, and intensified management efforts. It is vital to these programs that estuarine marshes and related areas which are integral elements in the overall lake environment be protected from such activities as dredging and filling of wetlands, improper placement of wastewater disposal systems, residential developments, etc.

In spite of the serious problems which remain to be coped with, significant progress has been made in Coastal Management by the State of Michigan—a basic coastal strategy has been developed and State legislation exists to prevent future unprotected development in hazard areas subject to erosion and flooding—to protect environmental areas necessary for maintenance of fish and wildlife. The very active pollution abatement program of Michigan has protection of the Great Lakes as its principal goal and in this area we are making significant progress.

The Regional Planning Agencies are actively involved in a process whereby local communities shoreland objectives will be identified so that they may be included in the State management program.

There is an active regional cooperative effort among the eight Great Lakes States aimed at reaching solutions to regional problems.

In essence we are confident we will develop a sound program and we are equally optimistic with regard to the impact of the National Coastal Zone Management Act. Implementation of the Act to date by the Office of Coastal Zone Management has been carried out so as to allow maximum state initiative. This approach is absolutely essential.

The amendments proposed in H.R. 16215 as indicated in the title of the Bill—"to provide more flexibility"—are consistent with our understanding of the nature of the program concept created by the Coastal Zone Management Act of 1972 (86 Stat. 1280).

The events of the two years since the passage of the Coastal Zone Management Act have greatly accelerated both the need for coastal management as well as

additional flexibility and increased funding in certain areas of program development.

The existing provision in Subsection (b) of Section 306, limiting administrative grants to 10% of the amount appropriated, does not seem realistic in the light of the way that the program is developing. For a variety of reasons, the States will not move forward at a uniform pace. Recognizing this, along with the fact that some States must speed up their programs to meet previously unforeseen events of the energy situation, the proposed change in allocation of Sec. 306 grants is sound. Those States in position to move into management programs should be encouraged to do so.

The proposed amendment to amended section 315 to increase 306 funding from $9,000,000 to $12,000,000 is strongly supported. It is our understanding that the first requests of the States for 305 grants substantially exceeded the amount available. As with most new programs, it is difficult to anticipate fully the ramifications of what is necessary to accomplish the goals to which we strive. Because these goals are shared by a substantial segment of society, and more importantly because a sizable share of society will also be involved in implementing these goals there are no shortcuts, no expedite methods. Program development is complex—more complex than probably many of us envisioned at the outset. Additional funding is necessary and warranted.

The proposed amendment to extend the funding for estuarine sanctuaries will, we hope, receive the endorsement of this Committee as the first step in full Congressional approval. It seems somewhat ironic that a concept which has been operative but for four months has in reality already been terminated. It seems that many have been reading section 312 of the Coastal Zone Management Act without fully realizing the implications of Sec. 315 (a) (3). The goals of creating estuarine sanctuaries for the purpose of creating "natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the Coastal Zone" should be a part of a coastal management heritage.

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The significance of being able to demonstrate the achievement of a successful coastal management program, in our view, is very crucial. The future of cooperative governmental action and of land management can be influenced to a marked degree by how well coastal management succeeds or fails. If it is to succeed it will require patience, tact, education and understanding on the part of 3 levels of government. The process must be afforded the time and effort necessary to assure at least a reasonable chance of success.

Mr. DOWNING. Your statement has been very impressive in this regard. I thank you, Mr. Marks for it.

Would you care to comment on Senator Aiken's proposal to include Lake Champlain?

Mr. MARKS. I have just been recently made aware of this but I think at least from my understanding of the Great Lakes situation, that we would think that many of the problems of Lake Champlain are similar, the fact that it has some international implications for instance. I think that certainly, we would not oppose the consideration of Vermont as a coastal State.

I think that circumstances there are different enough so it does not really set a precedent for adding a great number of other lakes to the program.

Mr. DOWNING. Mr. Forsythe?

Mr. FORSYTHE. Thank you, Mr. Chairman, and thank you Mr. Marks for a fine statement.

On the Lake Champlain situation would it be your feeling that the fact that the drainage goes to the St. Lawrence Waterway would really be the key to making that a unique situation?

Mr. MARKS. Right.

Mr. FORSYTHE. It seems to me we ought to be careful in that area.

Mr. MARKS. You could wonder where the program might end, being so diluted that it would not achieve anything, but I think this is a special enough situation that it warrants special consideration.

Mr. FORSYTHE. Thank you, Mr. Chairman.

Mr. DOWNING. Mr. Lagomarsino?

Mr. LAGOMARSINO. No questions.

Mr. DOWNING. Counsel?

Mr. HEYWARD. I take your statement, Mr. Marks, as reflecting generally the viewpoints of the States representing the coastal States organization. Is that a fair statement?

Mr. MARKS. Yes.

Mr. HEYWARD. We do have a letter from the chairman of your organization endorsing all three aspects of the amendment and I gather that you also strongly support the increased authorization which the administration objects to.

In operation of the program in the Great Lakes, what input or what coordination takes place there between the various commissions and the States?

Mr. MARKS. All right, as far as the Great Lake States we seem to be perhaps a little ahead of some of the other areas of the country.

All of the Great Lakes States are members of the River Basin Commission. That commission has created a standing committee for coastal management so that not only are there eight States themselves on this committee but also the relevant Federal agencies.

Mr. HEYWARD. I would gather then in developing your program that you are in close contact with the other States in the lakes area.

Mr. MARKS. Right, and we have developed a procedure at least where we can mutually consider areas where we have transboundary situations.

Mr. HEYWARD. Do they do anything to pass funds through to the area groups in connection with the individual programs?

Mr. MARKS. We have two passthroughs going now. One, most of the States and at least certainly Michigan is passing through about one-third of its 305 grants to regional planning agencies within the State.

In addition, we are passing through, and this is a proposal and it is ongoing now, that each of the States will pass through for the Interestate Committee's activities so we have a double passthrough.

Mr. HEYWARD. When this act was being considered earlier, we did have some objection from some of the local government groups as to the problems that might arise in connection with putting all the funding in the States.

Have you had that problem in the State of Michigan, or has the coordination been satisfactory from the local government's viewpoint as far as you know?

Mr. MARKS. Reasonably so, I think, that given the fact that there are limited funds, but as I say, we have passed a third of the State's money on through to the regional planning agencies, the thought being here that the regional agencies would be able to develop or at least identify the need and goals of the local communities and their willingness to enforce provisions to obtain those needs and goals. We then would incorporate them in the State's program, so that the State

management program would not only be at the State level, but would also incorporate what our local communities might wish to do in its coastal zone if it were willing to pass management legislation to enforce it.

That, Mr. Heyward, is the approach we are taking.

Mr. HEYWARD. Is Michigan constrained under its request this year in connection with fiscal 1974 in connection with its proposal?

Mr. MARKS. Yes, sir, we received somewhat less than we requested.

Mr. DOWNING. Mr. Bedell?

Mr. BEDELL. Mr. Marks, in earlier testimony which you have heard with reference to the adequacy of $12 million to meet the program needs, we heard testimony about $11.8 million that has been requested by the States.

I am wondering if you could just tell us something about the figure; that is, the way the total figure would be formulated. How do you formulate the request in the State of Michigan? What we want to know, is how reliable a figure is this? Is it inflated or does it represent your needs?

Mr. MARKS. I think it would be conservative, because from a practical standpoint, for instance, Michigan has a large enough share in its State funding that it could request a considerable amount more.

From a managerial standpoint and getting Federal funds, and filling out the forms, you try to get a handle as early as possible on the possible amount of money you can be expected to receive. You generally tailor your submittal to that figure because it is a difficult task to have to go back and scale down. So what normally we do, is figure what we will go forward with on the Federal program and what we go forward with on the State program.

In our own mind we figure out the total program, but the Federal submittal is limited by the practical constraints of the program.

I think the $11.8 million would be a very conservative figure.

Mr. BEDELL. In other words, if $12 million were actually to come down the pipe, it could be spent and would not be wasted?

Mr. MARKS. Oh, yes.

Mr. BEDELL. This is not an overly inflated figure?

Mr. MARKS. No; it is a very conservative figure.

Mr. BEDELL. Thank you, Mr. Chairman.

Mr. DOWNING. Mr. Heyward?

Mr. HEYWARD. I have one more question along that line. I had assumed that the States in appropriating their tax money are equally constrained as the Federal Government is in arriving at its budget.

Mr. MARKS. No question about that.

Mr. HEYWARD. And the fact is that in assessing their own priorities some States under this program have been willing to allocate funds above what the Federal Government is authorizing in matching?

Mr. MARKS. Yes, sir.

Mr. DOWNING. Thank you very much, Mr. Marks.

That completes the hearings for today.

The subcommittee will stand adjourned, subject to the call of the Chair.

[Whereupon, at 11:25 a.m., the subcommittee adjourned, subject to the call of the Chair.]

FEDERAL-STATE RELATIONSHIPS IN COASTAL ZONE

TUESDAY, DECEMBER 10, 1974

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON OCEANOGRAPHY,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:45 a.m., in room 1334, Longworth Office Building, Hon. Thomas N. Downing [chairman of the subcommittee] presiding.

Mr. DOWNING. The Subcommittee on Oceanography will come to order.

We are meeting today to receive testimony on a series of bills relating to the Federal-State relationship in connection with the impact of Federal activities on State coastal zones.

During the course of previous hearings and consideration by the subcommittee of other legislation, it became apparent that members of the subcommittee were concerned with the fact that while States are in the process of developing their coastal zone management programs, there may be inadequate consultation and consideration by the Federal Government of State viewpoints relating to Federal activities and their effect on the coastal States.

Today, we have several bills and a concurrent resolution—all addressing themselves to this problem.

We have H.R. 16411 and H.R. 17517 introduced by Mr. Anderson of California; H.R. 17508 and House Concurrent Resolution 687 introduced by Mr. Bauman; and H.R. 17571 also introduced by Mr. Bauman for himself and several other Members.

[H.R. 16411, H.R. 17517, H.R. 17508, House Concurrent Resolution 687, H.R. 17571 and departmental reports follow:]

[H.R. 16411, 93d Cong., 2d sess.]

A BILL To amend the Coastal Zone Management Act (Public Law 92-583) in order to allow State approval prior to oil drilling operations seaward of a marine sanctuary established by said coastal State, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 312 of Public Law 92-583, the Coastal Zone Management Act, is amended by adding the following new subsection:

"(b) No permit, license, or other authorization issued by a Federal department or agency for activities of any type seaward of a State established marine sanctuary or an estuarine sanctuary shall be valid unless the Governor of the coastal State involved certifies that the permitted activity is consistent with the purposes of this title and with the purposes of the State marine sanctuary."

SEC. 102. Reletter subsections accordingly.

[H.R. 17508, 93d Cong., 2d sess.]

A BILL To amend the Coastal Zone Management Act of 1972 to suspend until no later than June 30, 1976, Federal oil and gas leasing in areas seaward of State coastal zones

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of law, the Secretary of the Interior may not grant any lease for the exploration and development of oil and gas deposits of submerged lands of the Outer Continental Shelf which are seaward of the seaward boundary of any coastal State before whichever of the following dates first occurs:

"(1) the date on which the Secretary finally approves the coastal zone management program of the State pursuant to section 306; or

"(2) June 30, 1976.".

[H.R. 17517, 93d Cong., 2d sess.]

A BILL To amend the Coastal Zone Management Act of 1972, to provide for Federal-State cooperation in activities which may affect the coastal zone of a State prior to final approval of a State's coastal zone management program

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Coastal Zone Management Act of 1972 (86 Stat. 1280) is amended as follows:

Subsection (c) of section 307 is amended by adding a new subparagraph (4) as follows:

"(4) During the period in which a State is devising a coastal zone management program, and prior to final approval of such program by the Secretary, but in no case later than three years from the date of the award of the first management program development grant, no Federal agency may conduct or support activities or undertake development projects which may directly affect that State's coastal zone, unless the Governor of the concerned coastal State certifies that such activities or development projects are consistent with the coastal State's activities and policies relaing to the coastal zone."

[H.R. 17571, 93d Cong., 2d sess.]

A BILL To amend the Coastal Zone Management Act of 1972 to suspend until no later than June 30, 1976, Federal oil and gas leasing in areas seaward of State coastal zones

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 155) is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of law, the Secretary of the Interior may not grant any lease for the exploration and development of oil and gas deposits of submerged lands of the Outer Continuental Shelf which are seaward of the seaward boundary of any coastal State before whichever of the following dates first occurs:

"(1) the date on which the Secretary finally approves the coastal zone management program of the State pursuant to section 306; or

"(2) June 30, 1976.".

[H. Con. Res. 687, 93d Cong., 2d sess.]

CONCURRENT RESOLUTION

Whereas the Congress of the United States has determined that there is a national interest in the effective management, beneficial use, protection, and development of the coastal zone of the United States; and

Whereas the Congress is concerned that the United States coastal zone, and the fish, shellfish, other living marine resources and wildlife therein are ecologically fragile and consequently extremely vulnerable to destruction by man's actions; and

Whereas the coastal zones of the United States are also an important recreational area used by millions of citizens for relaxation and enjoyment; and

Whereas the Congress has reflected its determination and concern regarding the preservation of such areas by the passage of the Coastal Zone Management Act of 1972 (Public Law 92-583); and

Whereas the United States Department of Interior has announced its intention to proceed with an excessive offshore oil leasing program on the Outer Continental Shelf along the Atlantic seaboard and in other areas without a thorough examination and discussion of the onshore impact of this leasing program: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That no Federal agency conducting or supporting oil leasing activities directly or indirectly affecting the United States coastal zone shall conduct or permit any such activities prior to the development of an approved State management program under the terms of the Coastal Zone Management Act of 1972 by each State which may be directly or indirectly affected by such activities.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., December 11, 1974.

Hon. LEONOR K. SULLIVAN,
Chairman, House Merchant Marine and Fisheries Committee,
House of Representatives,
Washington, D.C.

DEAR MADAM CHAIRMAN: This is in reply to your request for the views of this Department concerning H.R. 16411 and H.R. 17508. The former is a bill

> To amend the Coastal Zone Management Act in order to allow State approval prior to oil drilling operations seaward of a marine sanctuary established by said coastal State, and for other purposes.

The latter is a bill

> To amend the Coastal Zone Management Act of 1972 to suspend until no later than June 30, 1976, Federal oil and gas leasing in areas seaward of State coastal zones.

Because both bills are similar in intent, the Department has consolidated its comments in this single reply.

H.R. 16411 would provide the Governor of a State with a veto power over any Federal permit, license, or authorization for activities "seaward" of a State marine or estuarine sanctuary. H.R. 17508 would delay the granting of any oil or gas lease on the Outer Continental Shelf seaward of the territorial waters of any coastal State until the State has its coastal zone management program approved or until June 30, 1976, whichever occurs first.

This Department opposes eactment of both bills.

It presently has within its jurisdiction a mechanism for the recognition of State interests in federally-related activity on the Outer Continental Shelf. The Coastal Zone Management Act of 1972 provides for Federal-State cooperation and coordination and thus precludes the necessity for the changes which would result from the proposed bills.

Under sections 306(c)(1) of the Coastal Zone Management Act, coastal States must praovide for "full participation by relevant Federal agencies, local governments, regional organizations, port authorities, and other interested parties . . ." in the development of their coastal zone management programs. Furthermore, once a State's program is federally approved, section 307(c) of the Act stipulates that all Federal activities or projects directly affecting its coastal zone must ". . . to the maximum extent practicable, be consistent with approved State management programs."

We believe that this is the proper vehicle for assuring the necessary degree of cooperation and coordination between the Federal and State governments in the issue of OCS leasing and licensing.

It is this Department's position that the legislative policy established in 1953 in the Submerged Lands Act (43 U.S.C. Sec. 1301) and the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1331) in conjunction with the program established under the Coastal Zone Management Act of 1972 achieve the appropriate balance in our Federal-State relationship while protecting the interests of both the national and the coastal State governments.

The Submerged Lands Act of 1953 delineates the jurisdictional rights of each coastal State to its seaward boundaries of three geographical miles distant from its coastline while the Outer Continental Shelf Lands Act attributes jurisdictional authority, including leasing rights, over the outer continental shelf, i.e., the lands outside of the three mile territorial waters, to the Federal Government. The Coastal Zone Management Act recognizes that the key to effective management of the conflicting demands on the Nation's coastal areas lies in a structure of intergovernmental cooperation, consultation, and consistency.

H.R. 16411 and H.R. 17508 would have the effect of placing coastal States in a dominant role in delaying the exploration and development of the resources on the OCS. Clearly, this would seriously alter the relationships established under existing laws.

In addition to these overall concerns with the two proposed bills, this Department would like to note another problem with H.R. 16411. This bill lacks adequate definitions for a number of terms and, consequently, is too vague and imprecise for practical administration. For example, "state marine sanctuaries" are not defined in the bill nor are they defined in the Coastal Zone Management Act. In practice, States have their own definition of marine sanctuaries. With such variations, it is not advisable to adopt a bill which establishes a national procedural requirement of such significant implications without a uniform national definition.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
General Counsel.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., December 23, 1974.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: This is in response to your August 16 and December 3, 1974 letters requesting a report on H.R. 16411, a bill "to amend the Coastal Zone Management Act (Public Law 92-583) in order to allow State approval prior to oil drilling operations seaward of a marine sanctuary established by said coastal State, and for other purposes," H.R. 17517, a bill "to amend the Coastal Zone Management Act of 1972, to provide for Federal-State cooperation in activities which may affect the coastal zone of a State prior to final approval of a State's coastal zone management program," and H. Con. Res. 687.

H.R. 16411 would amend section 312 of the Act, which provides for Federal grants to States for acquisition, development and operation of estuarine sanctuaries. The amendment would add a new subsection which would authorize a State governor to prohibit any proposed activity seaward of a State established marine or estuarine sanctuary that is not consistent with the Act and the purposes of the sanctuary.

H.R. 17517 would amend subsection 307(c) of the Coastal Zone Management Act of 1972 by adding a paragraph (4) which provides that no leasing activities can take place without State certification or until a State program under the Act is approved or until 3 years from the award of the first management program development grant, whichever is first.

H. Con. Res. 687 would resolve that no Federal oil leasing activities affecting the U.S. coastal zone shall occur until affected States have an approved management program under the Coastal Zone Management Act of 1972.

The Environmental Protection Agency defers to the Department of Commerce as to the merit of the proposed legislation. However, we offer the following comments concerning the bills.

While the stated purpose of the bill is "to allow State approval prior to oil drilling," in fact the bill inconsistently covers "activities of any type" which would receive Federal authorization. A further difficulty we have results from the absence of any criteria to determine that an activity is or is not consistent with the purposes of the Act or of a State-established marine sanctuary. Finally, the bill is unclear as to whether it applies to any State-established marine sanctuary or only to a sanctuary established under a federally approved program pursuant to the Coastal Zone Management Act.

H.R. 16411, H.R. 17517, and H. Con. Res. 687 have in common the principle that the States should have authority to prevent, under certain circumstances, activities affecting coastal and marine areas under their jurisdiction. We support the concept of retaining sufficient authority in the States to effectively carry out federally assisted programs meeting minimum Federal standards. Section 307 of the Coastal Zone Management Act appears to provide sufficient authority to control activities injurious to established sanctuaries by requiring that activities in or affecting the coastal zone must be shown to be consistent with approved State management programs.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the President's program.

Sincerely yours,

RUSSELL E. TRAIN,
Administrator.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., December 10, 1974.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives,
Washington, D.C.

DEAR MADAM CHAIRMAN: Your Committee has requested the views of this Department on similar bills H.R. 16411, H.R. 17508 and H.R. 17517, which would each amend the Coastal Zone Management Act and H. Con. Res. 687.

We recommend that none of these bills or the resolution be enacted.

H.R. 16411 would amend the Coastal Zone Management Act to provide that no permit, license or other authorization be issued by a Federal department or agency for activities seaward of a State established marine or estuarine sanctuary unless the Governor of the State certifies that the permitted activity is consistent with that title of the Act and with the purposes of the State marine sanctuary.

H.R. 17508 would prohibit offshore development until June 30, 1976, or approval of the State plan by the Secretary of Commerce, whichever occurs first. House concurrent Res. 687, simply calls for no development until the State develops a plan. H.R. 17517 is similar, prohibiting development, unless approved by the Governor of the State, but does limit the prohibition to 3 years from the date of the first grant for the program.

The effect of any one of these bills or the resolution, if enacted, would be to abrogate to a great extent a major achievement of the Congress when it enacted the Submerged Lands Act, 43 U.S.C. §§ 1301–1315, and the Outer Continental Shelf Lands Act, 43 U.S.C. §§ 1331–1343, in 1953. Those statutes established distinct geographical areas of Federal jurisdiction and control and of State jurisdiction and ownership. The effect of the bills now under consideration is to give the coastal States extra-territorial jurisdiction over activities on the Outer Continental Shelf authorized by the Federal Government. Such a decisive shift in the balance of State and Federal jurisdiction over the submerged lands off our coasts should not be taken when the objectives sought can and are being achieved under existing statutory authorizations. Enactment of any of these measures could postpone or prohibit the development of offshore oil and gas reserves vital to our energy needs and economy. This is particularly evident in H.R. 16411 which gives the coastal states the ability to prohibit Federal oil and gas leasing in the Outer Continental Shelf if such leasing were to take place seaward of a State marine sanctuary. These bills could also delay or prohibit anticiapted future uses of the Outer Continental Shelf for deep waterports and other purposes. It is difficult to see any advantages which the United States would gain by these sacrifices.

The goals sought by these measures are already achievable under the rational and well conceived mechanisms provided by the Coastal Zone Management Act, 16 U.S.C. §§ 1451–1464. The Act recognizes that the development of each State's coastal zone cannot proceed in disregard of programs of significance on a national and regional level. It provides a workable system of checks and balances whereby the interest of the Federal Government and each coastal State may be taken into account in the development and implementation of its coastal zone program. Under this system the States may designate areas of permissible land and water uses and designate the means by which the State shall exert control over such uses.

The Act insures that activities conducted by Federal agencies and applicants for Federal licenses or permits which may affect the coastal zone shall not be undertaken in a manner which is inconsistent with the approved State management program Paragraph (3) of subsection 307(c) already prohibits Federal agencies from granting licenses or permits until the State concerned has concurred with the applicant's certification that the proposed activity complies with the applicant's certification that the proposed activity complies with the State's coastal zone management program. This requirement applies within the United States territorial sea and covers activities affecting land and water uses within the coastal zone. The Secretary of Commerce has the authority under paragraph (3) to substitute his judgment for that of the State by finding "that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security." H.R. 16411 and the other bills would negate this override authority for any area seaward of an estuarine or marine sanctuary.

Section 306(c) provides that prior to approving any coastal zone mangement program, the Secretary of Commerce shall find that the State has developed and adopted its program after giving an opportunity for full participation by relevant Federal agencies. Furthermore, the Secretary must find that the program provides for adequate consideration of the national interest involved in the citing of facilities necessary to meet requirements which are other than local in nature. In addition, under section 306(e) the Secretary must find that local land and water use regulations adopted by a coastal State do not unreasonably restrict or exclude land and water uses of regional benefit.

The effect of the enactment of these bills would be to give the coastal states the ability to prohibit Federal oil and gas leasing in the Outer Continental Shelf if such leasing were to take place seaward of a State marine sanctuary. No criteria or limitations are specified for such State sanctuaries. It is conceivable that a State could designate its entire coast or most of it as a marine sanctuary and thus preclude mineral leasing or other activity requiring Federal permits or other authorization.

The authority to designate marine sanctuaries under the Marine Sanctuary Act (16 U.S.C. 1431–1434), rests with the Secretary of Commerce, who determines by regulation what shall constitute permitted activities within sanctuaries and determines whether other Federal agency approvals are consistent with his regulations. Sanctuaries may be designated within and without territorial waters.

In our judgment since the resources of the Outer Continental Shelf are held for the benefit of all citizens of the United States, to allow coastal states to prohibit the development of these resources even for a maximum of 18 months, as in H.R. 17508, or 3 years as in H.R. 17517, much less indefinitely as in H.R. 16411, is not in the public interest. The meaning of the requirement that any program seaward of a marine or estuarine sanctuary be "consistent" with the purposes of the sanctuary is not clear. Adequate authority already exists to provide for coordination of State Coastal Zone Management Programs and Federal activity. The National Environmental Policy Act, and the Outer Continental Shelf Lands Act, as well as present provisions of the Coastal Zone Management Act permit or require consideration of the impact of leasing and other Federal activities on the State's programs.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL,
Assistant Secretary of the Interior.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., December 12, 1974.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives,
Washington, D.C.

DEAR MADAM CHAIRMAN: Your request for comment on H.R. 16411, a bill "To amend the Coastal Zone Management Act (Public Law 92-583) in order to allow state approval prior to oil drilling operations seaward of a marine sanctuary

established by said coastal state, and for other purposes," has been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

This bill would render invalid any Federal agency authorization whatsoever of "activities of any type" seaward of state-established marine or estuarine sanctuaries without expressed approval from the state which established the sanctuary. These restrictions would appear to unduly impede the conduct of military operations in areas of coastal zones where the present law is applicable. The bill also appears to apply to areas seaward of coastal zones to an undetermined limit where restrictions could additionally impede the conduct of military operations.

Attention is invited to the fact that the law proposed to be amended is not section 312 of P.L. 92-583, but instead section 312 of the Marine Resources and Development Act of 1966 (P.L. 89-454), as amended by the Coastal Zones Management Act (P.L. 92-583). Further, although the proposed amendment refers to both marine and estuarine sanctuaries, the Coastal Zone Management Act speaks only of estuarine sanctuaries as defined in subsection 304(e) thereof.

Further, it is noted that the proposed legislation is inconsistent with the findings of the Special Master appointed in the case of *United States v. Maine* (No. 35, original docket, U.S. Supt. Ct., filed June 27, 1972, findings received August 27, 1974). These findings determined that exclusive competence over the seabed and subsoil resources of the continental shelf seaward of the limits granted to states by the Submerged Lands Act of 1953 lies with the Federal Government.

For the foregoing reasons, the Department of the Navy, on behalf of the Department of Defense, opposes the enactment of H.R. 16411.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on H.R. 16411 for the consideration of the Committee.

Sincerely yours,

E. H. WILLETT,
Captain, U.S. Navy, Deputy Chief.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., December 13, 1974.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 16411, "To amend the Coastal Zone Management Act in order to allow State approval prior to oil drilling operations seaward of a marine sanctuary established by said coastal State," H.R. 17508, "To amend the Coastal Zone Management Act of 1972 to suspend until no later than June 30, 1976, Federal oil and gas leasing in areas seaward of State coastal zones," and H.R. 17517, "To amend the Coastal Zone Management Act of 1972, to provide for Federal-State cooperation in activities which may affect the coastal zone of a State prior to final approval of a State's coastal zone management program."

H.R. 16411 would require coastal state approval prior to oil drilling operations seaward of a marine sanctuary established by that coastal state. H.R. 17508 would suspend Federal oil and gas leasing in areas seaward of state coastal zones until the earlier of June 30, 1976, or the date of approval by the Secretary of the Interior of the coastal zone management program of the state. H.R. 17517 would require, during the period prior to final approval of a state coastal zone management program, but in no case later than three years from the date of the award of the first management development program grant, state approval of Federal oil and gas leasing that directly affects a state's coastal zone.

The Department opposes enactment of these measures. They would seriously delay, or prevent, the development of vital offshore oil and gas reserves which this nation so critically needs. Administration policy is to expedite offshore oil and gas leasing, but in an environmentally acceptable manner. The Federal Government has consulted the states and solicited their views in order to coordinate

leasing policy with developing state coastal management plans and will continue to do so. We believe that under existing legislation there is the appropriate accommodation of and regard for state prerogatives with the nation's interest in achieving early production of offshore oil and gas reserves.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

RICHARD R. ALBRECHT,
General Counsel.

Mr. DOWNING. Since the witness list for today is fairly lengthy, I hope that the subcommittee can move expeditiously in order that we may accommodate all of our witnesses.

However, before hearing the first witness, I would like to recognize Mr. Mosher for any comment he would like to make at this time.

Mr. MOSHER. No comment, Mr. Chairman.

Mr. DOWNING. I would like to recognize Mr. Anderson of California for any comments he may have.

Mr. ANDERSON. First, Mr. Chairman, I have a number of letters from Governors of coastal States and representatives of coastal zone management groups, members of various coastal zone legislatures, that I would like to have a matter of record at this point.

Mr. DOWNING. Without objection, so ordered.

[The various documents referred to follow:]

STATE OF CALIFORNIA,
GOVERNOR'S OFFICE,
Sacramento, Calif., November 18, 1974.

Hon. GLENN M. ANDERSON,
Member of Congress
Washington, D. C.

DEAR CONGRESSMAN ANDERSON: Thank you for your letter concerning your proposed legislation, H.R. 16411.

This legislation would be useful in dealing with oil drilling operations seaward of established state marine sanctuaries. I understand affected state and federal agencies are now developing a program to insure protection of these sanctuaries, and the concept you propose would guarantee the results of this effort.

Also, I have indicated my support for the concept of "Project Independence." Your proposed bill should remove the concern that the federal government is ignoring the desires of the states in planning offshore development.

In their quest for independence from foreign oil sources I hope Congress and the executive branch of the federal government will not ignore the contributions that the Elks Hills petroleum reserve can make. I urge you to support efforts to utilize this valuable asset.

Sincerely,

RONALD REAGAN, *Governor.*

THE CITY OF SANTA BARBARA, CALIF.,
October 22, 1974.

Hon. GLENN M. ANDERSON,
U.S. Congress,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ANDERSON: Your letter of October 3 enclosing a copy of H.R. 16411 has been reviewed by my office, the City Attorney's office, and other members of our city staff.

Our conclusion is that we would highly recommend passage of your bill, H.R. 16411, as a means of permitting the State of California and, therefore, more local inputs on federal oil drilling operations.

We appreciate the opportunity for commenting on your proposed bill.

Cordially,

DAVID T. SHIFFMAN, *Mayor.*

COUNTY OF SANTA BARBARA,
Santa Barbara, Calif., October 8, 1974.

Hon. GLENN M. ANDERSON,
Congress of the United States
Washington, D. C.

DEAR CONGRESSMAN ANDERSON: I heartily approve in principle of requiring State approval of oil drilling seaward of a State Sanctuary, as envisioned in your H.R. 16411. I question, however, giving a Governor sole authority to approve; as the oil industry buys Governors the way you or I buy a candy bar. Why not add the State Legislature?

Cordially,

FRANK J. FROST,
Supervisor, First District.

STATE OF CONNECTICUT,
DEPARTMENT OF ENVIRONMENTAL PROTECTION,
Hartford, Conn., November 14, 1974.

Hon. GLENN M. ANDERSON,
U.S. House of Representatives,
Washington, D. C.

DEAR CONGRESSMAN ANDERSON: Thank you for sending me a copy of H.R. 16411 which you introduced as an amendment to P.L. 92-583 and which would require state approval prior to oil drilling operations seaward of a state established marine or estuary sanctuary.

As you know, the 10,000,000 acre offshore oil and gas leasing program is not in phase with the development of the State Coastal Zone Management (CZM) programs, since most CZM programs will not be completed until mid-1977. Your amendment would strengthen the CZM programs and has my support.

Since a marine or estuary sanctuary proposal is not actively being considered now in Connecticut, your amendment will not directly affect the State at this time.

Sincerely,

DOUGLAS M. COSTLE, *Commissioner.*

STATE OF DELAWARE,
EXECUTIVE DEPARTMENT,
Dover, Del., November 20, 1974.

Hon. GLENN M. ANDERSON,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE ANDERSON: In response to your letter of October 2, 1974, regarding H.R. 16411, I would like to offer the following comments and questions. I believe the intent of your proposal would be to strengthen a state's role in dealing with oil drilling and other activities having a direct bearing on that state's coastal zone, especially any sanctuaries established therein. I am concerned that your proposal would not deal uniformly with the problem as I understand that the total number of estuarine sanctuaries to be established under PL 92-583 will probably not exceed eighteen, while there are some 34 states and territories participating under the Act. Since some of these jurisdictions may not be able to participate in the estuarine sanctuaries portion of the program, they would be denied the review and approval opportunity given others. This is significant, in my opinion, since the states have as great an interest in the integrity of their other coastal resources, specifically wildlife areas, nature reservations and seashore parks, as they would in areas set aside as an estuarine sanctuary.

I am also concerned about amending the Coastal Zone Act of 1972 (PL 96-532) to include marine sanctuaries without some modification to PL 96-532, the Marine Protection, Research and Sanctuaries Act of 1972, which establishes the framework for the marine sanctuary program. The Coastal Zone Management Act does not specifically mention marine sanctuaries while the Marine Protection Act provides for federal establishment of such areas with the state role limited to nomination. Hence, I am confused about the language in your proposal which speaks to "state-established marine sanctuary." Does this mean that a state could designate a marine sanctuary by edict, based upon its own criteria, which

would then be recognized by the federal government prior to its licensing of oil drilling or other activities seaward of that sanctuary, and therefore subject to state approval? If so, I am certain that your proposal will be welcomed by each of the coastal states.

I hope these comments will be of value to you.

Sincerely,

SHERMAN W. TRIBBITT, *Governor.*

STATE OF FLORIDA,
OFFICE OF GOV. REUBIN O'D. ASKEW,
October 10, 1974,

Hon. GLENN M. ANDERSON, *M.C.*

DEAR CONGRESSMAN ANDERSON: Thank you for your letter of October 2 concerning H.R. 16411 which would amend the Coastal Zone Management Act of 1972 (PL 92-583).

The proposal in your bill to require State approval before oil drilling operations are approved by the federal government seaward of State-established marine or estuarine sanctuaries merits support in principle. However, the term "seaward of" could mean a considerable distance in Florida because we have an offshore State territorial boundary of three leagues in the Gulf of Mexico rather than three miles as off Florida's Atlantic Coast. Since our State aquatic preserves are estuarine except in the Florida Keys, this stipulation could mean distances as great as nine or ten to more than a hundred miles from preserves or sanctuaries to drilling operations on lands under federal jurisdiction off the Gulf coast. Such distances would appear to act as a buffer for State preserves or any coastal sanctuaries established under the Coastal Zone Management Act.

In reviewing this matter, State personnel have suggested that the State-approval provision might be inserted in the Federal Lands Leasing Act. You may wish to consider this approach.

With kindest regards,

Sincerely,

REUBIN ASKEW, *Governor.*

STATE OF GEORGIA,
EXECUTIVE DEPARTMENT,
Atlanta, Ga., October 18, 1974.

Hon. GLENN ANDERSON,
Representative,
Washington, D.C.

DEAR CONGRESSMAN ANDERSON: Thank you for your letter regarding H.R. 16411, which would amend the Coastal Zone Management Act of 1972 to require state approval prior to oil drilling operations seaward of a state-established marine or estuarine sanctuary. I find the proposed amendment to be consistent with the intent of the Act. I would prefer, however, that the amendment go a step further to require that any operation or lease agreement, under Federal jurisdiction within or beyond a state's boundaries be in agreement with the Coastal Zone Management policies of that state. Additionally, such actions should require state review and approval.

I appreciate the opportunity to express my views regarding this matter.

Sincerely,

JIMMY CARTER.

THE LOUISIANA COASTAL COMMISSION,
LaFayette, La., October 30, 1974.

Hon. GLENN M. ANDERSON, *M.C. Washington, D.C.*

DEAR CONGRESSMAN ANDERSON: On October 2, 1974, you wrote to Governor Edwards concerning H.R. 16411, your bill to amend the Coastal Zone Management Act of 1972. Governor Edwards has asked me to reply on his behalf.

During the development of legislation on offshore oil ports, you supported the bill by Congressman Breaux. For this we are appreciative. John is my local Congressman. Governor Edwards and I feel that John's bill was the best of the superport bills. Some of his provisions are included in the Senate Bill. We will now have to await the conference report to see what the final outcome will be.

We share similar views on superports. We also have a similar situation with regard to offshore oil activity and have a common understanding of the prob-

lems involved. However, your situation is somewhat different from ours as much of the offshore activity in your district occurs adjacent to highly urbanized areas. In Louisiana we have little urbanization on the immediate coast because of the extensive marshlands.

The concept of state control is important in superport legislation and is applicable to other types of offshore activity as well. In your letter you specifically mention oil drilling operations. In your bill you use the terminology "activities of any type." Oil and gas activity is by far the major activity which takes place and in the forseeable future will continue to take place on the outer continental shelf so I will confine my observations to oil and gas.

A difference does exist between oil drilling and a superport. A superport need not be located at a specific site. If it is undesirable to have one located at site X, site Y or Z which may be many miles away can be used. However, petroleum exists in fixed reservoirs beneath the land and sea. If this petroleum is to be extracted, wells must be drilled at precise locations. You are as well aware of the fact as we are in Louisiana that some states are strongly opposed to drilling for oil and gas off their shores even beyond their territorial limit. It is a possibility that some states may use your proposal as a means of stopping mineral production off their coast. This raises the question of state interest verses national interest. Should they not share equal responsibility with California, Louisiana, Texas and Alaska?

Your proposed amendment deals with a "State established marine sanctuary or an estuarine sanctuary." An "estuarine sanctuary" is defined in the Coastal Zone Management Act. However, the term "State established marine sanctuary" needs further clarification. P.L. 92-532, the Marine Protection Research and Sanctuaries Act of 1972 does provide for the establishment of marine sanctuaries by the United States Secretary of Commerce. Also, Section 302 of the Act provides for veto power by the Governor of the affected state.

Although we agree on the concept of state control, would it not be more appropriate to address this issue to those undertaking the National Ocean Policy Study which was authorized by the U.S. Senate this past February? NOPS addresses itself specifically to the development and utilization of marine resources and also addresses itself to question of "State functions and powers in Coastal Zone Management." We are dealing here with a matter of policy which will have a great impact upon every coastal state as well as the nation through the years. Moreover, it is related to questions which were considered at the Law of the Sea Conference in Caracas. Answers to many of these questions are still not forthcoming.

Also involved is the Energy Supply Act, S 3221, which was recently passed by the Senate and awaits action in the House. S 3221 contains provisions for state participation and decision making.

Recently the special master appointed by the U.S. Supreme Court to gather evidence on boundary claims of the Atlantic coastal states filed his recommendations with the Court. He recommended that the claims of Atlantic coast states to jurisdiction over their submerged lands out to the edge of the Continental Shelf are not legally valid. He states that they should be given jurisdiction only to the three mile limit. The Supreme Court has yet to act on his recommendation. However, for the time being I believe we are on safe ground in assuming that they will rule similarly as in the cases of California and the Gulf Coast States.

Morever, the question of national interests is being considered by the Coastal States Organization. I am one of Louisiana's delegates to CSO. Possibly it is appropriate that this be brought up for discussion by Coastal States Organization as it is of mutual interest to all of them

So there are a number of facets of the matters that must be considered. Is the Coastal Zone Management Act the appropriate place for this to be included? Does it need consideration in NOPS and by CSO? Also, today as I write this letter, a change has taken place in the Federal Energy Administration. This raises the question of what modifications are coming in our energy policy.

We certainly do agree in the concept of state participation in activities off their shores, and you may be rest assured that we will support efforts to give states a reasonable say so in these activities. We would like to ask you to consider the various avenues of approaching this matter which I have mentioned. Please call upon me if you feel I can be of any additional assistance.

Sincerely yours,

VERNON BEHRHORST, *Director.*

STATE OF MAINE,
OFFICE OF THE GOVERNOR,
Augusta, Maine, October 9, 1974.

Hon. GLENN M. ANDERSON,
U.S. House of Representatives,
Washington, D.C.

DEAR Mr. ANDERSON: I would like to express my strong support for both HR 16215 and HR 16411 which your subcommittee is presently considering. The State of Maine's coastal zone management efforts are gauged to apply for administrative grants under the Coastal Zone Management Act of 1972 by early next year. HR 16215 could greatly enhance our opportunities in this area; HR 16411 is also of vital importance to Maine in assuring us that we will have the capability to protect state established marine and estuarine sanctuary areas.

I commend your efforts to assure passage of both of these bills, and hope that you will be successful.

Sincerely,

KENNETH M. CURTIS, *Governor.*

THE COMMONWEALTH OF MASSACHUSETTS,
EXECUTIVE DEPARTMENT,
Boston, Mass., November 13, 1974.

Hon. GLENN M. ANDERSON,
Washington, D.C.

DEAR CONGRESSMAN ANDERSON: I appreciated receiving your proposed amendment to the Coastal Zone Management Act of 1972. I supported the concept of H.R. 16411 while it was contained in the original house version of the Coastal Zone Management Act and continue to do so.

I share your concern that the prerogative for state certification is most vital and complements the spirit and intent of P.L. 92–583, I extend to you the support of this office.

With best wishes.

Sincerely,

FRANCIS W. SARGENT.

OFFICE OF THE GOVERNOR,
STATE CAPITOL,
Salem, Oreg., October 18, 1974.

Hon. GLENN M. ANDERSON,
Washington, D.C.

DEAR CONGRESSMAN ANDERSON: The intent of the amendment you propose in HR 16411 is appropriate and is something I can support. An estuary is not a self-enclosed system. Offshore activities can and do influence the estuary system. If a state is to manage a marine or estuarine sanctuary in a manner that carries out the purposes for establishing such a sanctuary, the state must have a voice in what happens offshore. I can support a bill that will give us that voice in a strong and meaningful way.

There appears to be some problem with the language in HR 16411. As worded, it would give state veto over all actions of the federal government in these offshore areas. I question if it is appropriate or even constitutional to have this veto on matters relating to national security or international shipping. This needs to be clarified. Also, I believe a definition needs to be included which would clarify the area offshore that is to be covered by the amendment.

If these items are clarified, I could support your proposal.

Best wishes in your efforts.

Sincerely,

TOM MCCALL, *Governor.*

THE SENATE OF THE STATE OF TEXAS,
October 1, 1974.

Hon. GLENN M. ANDERSON,
Washington, D.C.

DEAR CONGRESSMAN ANDERSON: Thank you for the copy of HR 16411 that you recently introduced providing for a state veto of offshore oil and gas development.

I will bring this up to the Coastal States Organization Executive Committee at our next meeting, which is tentatively set for November 13 in Washington, D.C. As I am sure you are aware, CSO consistently supports a stronger role for coastal zone management pursuant to PL 92–583. Considering developments of the last year concerning energy, I feel and have always felt considering our experiences here in Texas, that any coastal zone management effort must include energy-related matters.

I will inform you of CSO's action in this matter, just as soon as we meet.

Sincerely,

A. R. SCHWARTZ.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
October 21, 1974.

Hon. GLENN M. ANDERSON,
House of Representatives,
Congress of the United States,
Washington, D.C.

DEAR MR. ANDERSON: Your letter of October 2 asking Governor Godwin for his support of H.R. 16411 has been given to me for reply.

There are several agencies in this office which have vital concern in this area. When questioned, each of these agency heads requested that we support your amendment.

Although the Commonwealth of Virginia does not have sanctuaries and H.R. 16411 does not cover coasts of states which have none, I believe that it would, if passed, improve the Commonwealth's authority with regard to offshore development.

I, therefore, offer our support on this measure.

Sincerely yours,

EARL J. SHIFLET.

STATE OF WASHINGTON,
OFFICE OF THE GOVERNOR,
Olympia, Wash., October 21, 1974.

Hon. GLENN M. ANDERSON,
House of Representatives,
Washington, D.C.

DEAR GLENN: This Office has reviewed the copy of HR 16411 which was included with your letter of October 2, 1974. We strongly support the thesis that marine or estuarine sanctuaries established by states should be protected from adverse influence which might arise from activities permitted by Federal agencies.

We feel that your proposed amendment to Section 312 of Public Law 92–583 would provide the means for resolution of any such conflicts and therefore support this legislation.

Sincerely,

DANIEL J. EVANS, *Governor.*

SIERRA CLUB,
San Francisco, Calif., October 3, 1974.

Congressman GLENN M. ANDERSON,
Washington, D.C.

DEAR GLENN: Thank you for your recent letter regarding H.R. 16411. The Club has long supported the principle of this bill and we are pleased that you will offer this to amend PL 92–583, the Coastal Zone Management Act of 1972. You can count on Sierra Club support for H.R. 16411.

We will also be supporting the principle reflected in H.R. 16411 when the OCS legislation recently passed by the Senate comes before the House Interior Committee.

Thanks for your interest in this subject and let's keep in touch.

Sincerely,

LARRY E. MOSS,
Associate Conservation Director.

STATEMENT OF HON. GLENN M. ANDERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. ANDERSON. Mr. Chairman, I appreciate your scheduling hearings on these proposals—H.R. 16411 and H.R. 17517—which are designed to protect a State's coastal zone from Federal activities that could damage the State's waters, beaches, and shores.

The first bill—H.R. 16411—would amend the Coastal Zone Management Act of 1973 by permitting the Governor of a coastal State to prohibit Federal activities seaward of that State's marine sanctuaries, if he—the Governor—felt that such Federal activities would be detrimental to the State-established marine sanctuaries.

As you may know, in California we have nine sanctuaries in which oil and gas operations are prohibited. These were established by the State in order to protect the unique and fragile nature of some of our more scenic and valuable shores and beaches. However, the State's efforts toward conservation were negated—completely nullified—in 1969, when the Federal oil lease—located immediately seaward of the State sanctuary at Santa Barbara—blew out, allowing oil to soak the area protected by State law.

This proposal is designed to extend those areas protected by a State seaward beyond the 3-mile limit of State jurisdiction, since, as we learned in 1969, oil spills do not recognize legal boundaries.

A measure, very similar to H.R. 16411, was adopted by the committee and by the House in 1972 when we first passed the original Coastal Zone Management Act. That measure—section 313(c) which was later deleted in conference—stated:

> The Secretary shall, to the maximum extent practicable, apply the program developed pursuant to this section (management program for the contiguous zone of the United States) to waters which are adjacent to specific areas in the coastal zone which have been designated by the States for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values.

I might say this was my original bill and I am perfectly satisfied with this approach. However, we found in contacting the many coastal States that California was one of the few States that had established marine sanctuaries, thus it was suggested by representatives of other States and by the representatives of the Department that another more flexible approach be taken and this is the second bill, H.R. 17517.

The second bill—H.R. 17517—is intended to protect the State's right to manage its own coastal zone and prevent Federal development plans which may conflict with State management programs. As you know, under current law—section 307 of the Coastal Zone Management Act—each Federal agency which is:

> Conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs.

However, as yet, no State has an approved State management program, and California—which is ahead of most coastal States in developing a program, the voters adopted one last year and that is being ironed out right now—won't have a plan to submit to the Secretary for approval until late 1976.

Thus, in the interim period—before a State can have its plan approved by the Secretary of Commerce—any Federal agency can conduct or support an activity which may be inconsistent with State management plans. In effect, the Federal Government can—over the next 2 years—take action—nonreversible action—that may completely ruin a State coastal zone management plan before the plan is put into operation.

In order to close this loophole in the law—in order to require Federal consistency now, while the States are still in the planning process—H.R. 17517 would merely take the language of the law requiring consistency and make it applicable at this time. And it would be the Governor's responsibility to certify if such contemplated Federal actions were consistent with the State management plan, at that stage in the development of the plan.

I feel that this was the intent of the law which we passed in 1972; but I believe that this refinement is necessary at this time in order to prevent Federal agencies from hastily rushing through some programs merely to avoid the consistency clause which will become operative when the Secretary of Commerce finally approves the State plan.

It makes little sense for the Federal Government, with one hand, to alocate funds to a State to draw up a coastal zone plan, while with the other hand, the Government takes irreversible action which may destroy the State program.

This bill—H.R. 17517—is not an attempt to ban or prevent all Federal activities outside the coastal zone. On the contrary, it is an attempt to obligate the kind of Federal-State cooperation which we all know is so necessary for the success of the coastal zone management program; it is an attempt to merge Federal and State interests.

Mr. Chairman, again I appreciate your interest and your great knowledge in this program and in these proposals.

I think all of us can agree that outside the coastal zone we have both a State and a national interest. It is my feeling that both of these interests can be met by requiring the Federal Government to act in a manner which is consistent with a State's coastal zone management program.

Thank you, Mr. Chairman.

Mr. DOWNING. Thank you, Mr. Anderson.

You have been a diligent person on this particular problem.

I now recognize the author of several other bills, Mr. Bauman of Maryland.

Mr. BAUMAN. Thank you very much, Mr. Chairman, for including my bills in the hearing. I just want to make a brief opening statement.

I think that even though the subcommittee and the full committee may not take action before the end of this year, this hearing does open a useful path for action early in the next Congress on some form of legislation dealing with the conflict between the Interior Department's leasing program and the coastal zone management law which has been on the books since 1972.

My particular bill, which was introduced along with a number of cosponsors, simply seeks to delay the actual leasing by the Interior Department on the Outer Continental Shelf until the Department of Commerce approves the final coastal zone management plan for each State, or by June 30, 1976.

I am not at all wedded to this date. It could be extended beyond that and certainly I am open to amendments to bring about a longer period of time.

The net effect would be the protection of the coastline.

I do want to emphasize, however, for those of you who were here before my advent in Congress, that I am sure all of you know the purpose of the Coastal Zone Management Act. We need not go into the reasons that Public Law 92–583 was passed, but it is quite clear that they conflict with Interior Department plans.

All of us have supported strongly various bills to increase the energy supplies of this country, but I think we also have to realize the reason we are having the hearing today is to work out the obvious conflicts that exist between the need for energy and the protection of the environment.

I point to only one statement, though I think the Interior Department has in many respects been remiss.

The Secretary of Interior late last month testified before the Subcommittee on Environment of the Committee on Interior of which I am a member, and under questioning by me protested that there was no need to delay the leasing schedule because he felt the leases could be let in December of 1975; that no production would occur, as he expressed it, from 6 to 8 years thereafter.

Now, at the very moment he was saying this before the Interior Subcommittee, Exxon officials were holding a press conference in Baltimore, stating publicly that within two years from the date of the leasing, they could produce oil off the Delmarva Coast, if they were given the leases by December of 1975.

In other words, their plans, though their plans at this point are highly secret, are already laid for the type of activity that will follow the leasing and they did not agree with the Secretary's statement.

I will note in passing and you will have a great deal of testimony on this, that there have been a number of preliminary studies regarding onshore impact of offshore drilling.

The Council on Environmental Quality earlier this year mentioned in their rather lengthy report the impact on just one area of New Jersey. They estimated that in the rural Southern New Jersey area, which is much like the first district of Maryland, Cape May and Cumberland Counties, that the area could expect an influx of something like 30,000 jobs, that is, 30,000 new jobs within a short time as a result of this offshore drilling, and the leasing that allows it.

This, of course, they statistically show, would have a tremendous impact on the State of New Jersey. Mr. Mosher has already mentioned the study by the Office of Technology. Their study that is being done.

I would like to refer to one recent study that was done by the Texas Coastal and Marine Council headed by State Senator A. R. Schwartz, of Galveston. The study was made of the cost and offsetting tax income for the State of Texas, and the consequences of oil and gas operations in Federal waters off its shores.

The result was, according to the Office of Information of the Governor of Texas, as reported in November, that Texas receives $8.9 million in tax revenues from the various activities onshore brought about by the offshore operations.

The cost of providing extra services to State and affected governments is $111 million.

This leaves Texas with an estimated annual deficit, comparing the two figures, of $62.1 million.

I only mention these figures to show the magnitude of the problem that will be faced unless we provide the States time to take the proper planning actions.

I want to comment lastly on the fact that the executive branch of the State of Maryland today is not represented here.

I do not know the coastal status of the other States. I know that in Maryland there is considerable confusion about what should be done about offshore drilling although we have received a Federal grant within the last few months for the purposes of coastal zone planning.

Our Lieutenant Governor says that the Interior Department leasing schedule is acceptable to him.

Our Governor has said little or nothing.

Our secretary of natural resources has declined to appear here today.

We have facing us a 3-month General Assembly session in 1975 which will probably address itself directly to this problem.

All of this points up the fact that we need time, Mr. Chairman.

It is a race against time to preserve the coastal areas where, once changed, they will never be the same. So I hope out of this hearing today comes direction for legislation either immediately in this session or in the next Congress, which convenes in January.

Thank you, Mr. Chairman.

Mr. DOWNING. Thank you, Mr. Bauman.

I think the reason Maryland did not appear was a matter of timing. Also the National Governors' Conference was invited to testify, but due to a turnover in their committee, they preferred to wait until the first part of next year.

Mr. BAUMAN. I might add we do have a number of witnesses from other jurisdictions in Maryland.

Mr. DOWNING. Our first witness this morning is our colleague from Alaska, Don Young.

Do we have copies of your statement?

Mr. DON YOUNG. Mr. Chairman, I believe there are copies. They should have been distributed. I do not know where they are.

Mr. DOWNING. Yes; we have them.

STATEMENT OF HON. DON YOUNG, U.S. REPRESENTATIVE FROM THE STATE OF ALASKA

Mr. DON YOUNG. Mr. Chairman and members of the committee, I would agree with both previous speakers and I joined in cosponsoring legislation because I felt recent actions by the Interior Department dictated immediate concern.

Admittedly, that Department has agreed to delay the OCS hearings and move "more cautiously" in the leasing and development of the OCS. However, the delay occurred only after extreme pressure from affected coastal States, and threatened litigation.

As an example of the concerns which require a delay, the proposed leasing of the OCS off the Gulf of Alaska will have a direct impact on the already depleted condition of Alaska's fisheries.

Mr. Chairman, let me say I am interested in the coastline, but primarily I am interested in the fisheries that are along our coastline because I have seen a great depletion of these resources, and I think this could lead to further depletion.

There is potential conflict in both offshore development and onshore support facilities.

At present, the fishing industry employs over 20 percent of Alaska's total labor force. The industry is the largest private employer in the State, second only to government in total employment.

Those agencies charged with the management of Alaska's fisheries have their hands full with foreign and domestic fish pirates operating off our shores, without having to cope with accelerated development of our OCS areas.

The environmental statements presently available are totally inadequate regarding development off Alaska's coast. They consistently cite the Council on Environmental Quality report which concludes that development in the Gulf of Alaska is potentially the most dangerous area in the country, and yet this area appears as one of the first areas to be leased under the proposed OCS planning schedule.

The environmental studies contain substantially no new scientific information on the Gulf of Alaska. Instead, the reports represent a reiteration of inconclusive evidence from previous studies. Many of these studies only conclude by stating the necessity for continued scientific investigation of the resources and environment of this region.

The Commerce Department, through the National Oceanic and Atmospheric Administration, recognizes the need for additional research. Their "environmental data buoy program" entered into its engineering test and evaluation phase this year. This program should prove helpful in filling many gaps in marine monitoring in the Gulf of Alaska.

The National Marine Fisheries Service is currently involved in the formulation of a National Fisheries Plan (NFP). This plan will hopefully coordinate the conservation and exploitation of all of this Nation's fisheries in a scientifically oriented program.

The Office of Coastal Zone Management prescribed by the Coastal Zone Management Act, Public Law 92–583, authorizes the allocations of Federal resources, both financial and technical, to assist and promote efforts of coastal States in the development and administration of comprehensive management programs for their coastal zones, that goes back to Mr. Anderson's statement.

Unfortunately, the Interior Department obviously intends to accelerate the OCS leasing program prior to the implementation of a coastal zone management program in the State of Alaska.

Indeed, coastal States which must plan for the extensive impact of offshore development are being excluded entirely from the leasing process.

The studies initiated by the Commerce Department, the findings of the CEQ report, the CEM Act passed by Congress, and the objec-

tions of numerous groups and individuals as to the handling of the leasing procedure are being ignored by the Interior Department.

It is imperative that development of the OCS be coordinated with existing uses of surface and subsurface offshore regions. The inevitable conflict between fishing, maritime, and recreational uses with offshore drilling must be researched ahead of time.

Concurrently, presently available environmental studies should be utilized and further studies initiated where indicated to identify the areas with the greatest potential environmental damage.

I am speaking, Mr. Chairman, primarily of damage to the fisheries.

This information should then be utilized to obtain priorities based on potential gain from resources against harmful effects on existing resources and the natural environment, to reach a solution maximizing a net gain to the Nation while minimizing damage to the coastal States.

To achieve this necessary goal, our CZM program must become operational, and be adequately funded prior to any further development of Alaska's OCS.

Of added concern to the State of Alaska and I think all coastal States, is the severe socioeconomic impact which will result from the proposed development off our coast. Alaskans have historical evidence of this impact in the current construction of the Alaska pipeline and in the exploration and development of Cook Inlet.

Impact from such development is particularly felt in Alaska due to our relatively pristine environment and the limited size of the towns and villages near the areas of proposed development. We have recently seen decided impact on Valdez, the terminous of the trans-Alaska pipeline and Kenai and also Fairbanks, the major community serving the offshore oil development of Cook Inlet.

These communities, as well as others, have experienced major population growth and the resulting effects on police and fire protection, the maintenance of a school system, health facilities, et cetera. Development in general has had a massive impact on Alaska's transportation network. The need for increased facilities has doubled and redoubled in recent years.

The coastal zone management program, if it is allowed to be implemented and utilized prior to offshore development, will allow these communities to plan for future growth and development and provide just compensation for the impact of this development.

Alaska stands ready and willing to do its share in contributing to needed energy development for America. The vast untapped resources of our State can contribute substantially to the Nation for many years to come. But I'm sure that all will agree that it is also in the best interests of the Nation to protect Alaska's unique environment, its cultural heritage, and its economy which are crucial to managed development.

Agencies charged with overseeing offshore development will need to have strict guidelines which can be obtained through a coastal zone management program. Socioeconomic impact as well as environmental impact must be determined and the affected industries and communities must be compensated for any such impact.

I urge the passage of this legislation which I feel will go a long way toward accomplishing the goals I have outlined above. Further prog-

ress can be made by the determination of an equitable formula for the distribution of offshore development revenues. Congress will want to address itself to this issue in the near future.

Mr. Chairman and members of the committee, I thank you for allowing me to testify.

Mr. DOWNING. Thank you, Congressman Young, for a very fine statement.

Does the committee have any questions of Congressman Young?

Mr. MCCLOSKEY. I do, Mr. Chairman.

Mr. Young, I wanted to read to you from a document called "The Coastal States Organization," and it says the following:

The following position statement of offshore oil and gas development was approved by the Executive Committee of the Coastal States Organization meeting held November 13, 1974.

I read this because the vice chairman and president is an Alaskan, and I see in the membership of this organization that while California is not included, Texas, Alaska, Washington, Hawaii, Virginia, Florida, Michigan, Maine and South Carolina are represented.

The statement reads as follows:

. . . it is in the national interest to develop the oil and gas reserves of the Outer Continental Shelf in a safe manner.

. . . consistent with national energy policy.

. . . the principal environmental impact will be on land or supporting facilities.

Then it goes on to say that:

The States involved should share tne reveneus from the offshore development.

It raises no question that there should be any delay in the Outer Continental Shelf development.

Are you familiar with this organization and Alaska's participation in it?

Mr. DON YOUNG. I am familiar with the organization and also familiar with the statement made by the gentleman and he is a very well qualified man although I will say because of that statement and numerous stands that he has taken, that he is no longer employed, nor is the Governor that backed him up.

We just had an election.

Let me make one thing clear.

I believe there is a great interest in the development of the offshore leasing and the offshore oil fields in Alaska now and it is my feeling and let me restate this, it is my feeling that this must be done wisely and on a planned basis.

This cannot be rushed into and I am sure that because we are a State of very small size with vast oil quantities, there may be a desire from other States that have many people and many beaches to look upon Alaska to solve the energy problems by excessive leasing and drilling.

Alaska has the major fisheries of this Nation and we have additional problems now that we may have, let us say, when the trans-Alaskan pipeline is completed, and we have the ships running back and forth.

We have many unknowns and I can tell you very truthfully I do not believe we should jump in the lease, go and explore at a rapid rate. We have more to lose than to gain, and I would like to suggest that the committee strongly support the legislation regardless of the Govenor's stand in this case, that we look upon obtaining some of the

revenues from the sales of these leases and the production of oil to the State that must suffer the impact, but the biggest thing I would like to stress is we must do it on a planned basis.

We cannot jump into it immediately.

Mr. McCloskey, and Mr. Chairman, we have so many unknowns facing us and I do not want to see the fisheries destroyed.

Some say it will not be destroyed and I must tell you that I will have to be assured of that before I give my support.

Mr. McCloskey. Alaska is proceeding with a coastal zone management plan now.

Mr. Don Young. Yes, we are.

We have not made the progress we should have but we are very active, statewide, and we are participating under the act itself.

The State has a very active role in a management zone plan.

Mr. McCloskey. I have a problem with this committee getting involved in this field. If our major national goal right now is the evolution of a national energy policy, is it not premature to move the legislation that would, in effect, give the State a veto over the national energy policy until we, at least, have the administration's proposals as to what the national energy policy is?

Mr. Don Young. If I may say so, the thing that worries me, the proposal as made originally, there will be 8.5 million acres of land leased of the 10 million acres in the Gulf of Alaska.

Once those leases are made basically the Interior Department loses control of what time frame is put into the drilling and the development of those oil fields.

Mr. McCloskey. But has not the Secretary of the Interior extended for 60 days the time for the consideration as to whether those leases should be granted at all?

Mr. Don Young. No, he has extended for 60 days the hearings in the States, to be more prepared to give their testimony.

I would think, and the way I think this committee should become involved, I think the Interior Department, and no disrespect for those in the Interior Department, because they have been under great pressure due to Project Independence for the source of energy, especially if we go to gas rationing and to higher costs for fuel, that there will be a great cry for additional production of energy and I will support it only if it is done soundly.

I do not believe that the hearings will delay the leasing of those fields if the Congress does not say no, we want to see why it is imperative, we want to make sure it is environmentally sound, we want to make sure it is right for the United States of America to sell that much acreage of potentially the highest oil producing sands in the world now, in a large lump sum.

Why not look at it in maybe an exploratory fashion?

Let us make sure the drilling is done in the more promising areas, but why 8.5 million acres in the Gulf of Alaska in one lump sum, and they will say it will only be for 10 years?

Mr. Chairman, I just don't believe that.

Mr. McCloskey. I do not disagree with the thought that before any leases go forward, the administration ought to propose and the Congress ought to agree to a national energy policy.

Presumably, these meetings the President held last week will result in a state of the Union message as to what the President's proposals are. However, this legislation would give the State, in effect, a veto over any leasing until 1976 or until some later date, and I cannot conceive of this committee granting a veto to a State Governor in a national energy policy at this time in history when we are trying to solve the national energy problem.

Mr. ECKHARDT. Would the gentleman yield?

Mr. MCCLOSKEY. Yes.

Mr. ECKHARDT. I can see some merit to the gentleman from Alaska's position that the State ought to get a first bite if it acts promptly.

I understand this from my own State's program and in some respects I think leasing has been too sporadic.

In other words, the oil companies have picked up the best leases and have not developed those in between.

I do not think that we have always gotten the most for our State.

It would seem to me that there is merit to the proposition that the State ought to have a first bite, but if the State does not act or if it acts contrary to Federal policy, the Federal Government ought not necessarily to have to hold its hand until June 30, 1976.

Mr. MCCLOSKEY. If the gentleman will yield back?

Mr. ECKHARDT. I yield back.

Mr. DOWNING. You had the floor.

Mr. MCCLOSKEY. I think with our colleague testifying before us, this is the appropriate environment in any event, to discuss this testimony.

We already have in the act section 306(c)(8), which would provide that as approval for the safe program on coastal zone management, the management program must provide for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

We often see where this offshore drilling takes place, the primary impact is going to be on an onshore facility.

As the State develops its State plan, it must consult with the National Government as to the potential national interest as to the drilling for offshore oil. However, we have a period now, within the next 6 months, where the administration, the Congress, and the respective States are all going to have to expedite their consideration of coastal zone plans. In this process, we must consider whether or not the national interest in offshore oil development is going to preempt the purposes of this act, which are essentially to preserve the landscape and coastal zone.

I am not making an argument against this.

I am thinking exactly what the gentleman from Alaska and the gentleman from Texas have said is correct; certainly, the offshore drilling should not proceed and its planning should not proceed without considering the coastal zone.

My concern is that we postpone an attempt to give the Congress or the Governors of the States a veto power for a period of 18 months or some years in the future over a policy on which we may very well turn around in this committee and vote differently 90 days from now.

It is the time frame that bothers me about the situation, whether or not the proper forum to force immediate discussion is the passage of a

bill through this committee which, in effect, forces an early discussion that might be appropriate, if that is the tactic and if that is the purpose.

Mr. ANDERSON. Will you yield?

Mr. MCCLOSKEY. Yes.

Mr. ANDERSON. The problem, as I see it, is and you quoted section 306 and all the various points, that we have set down in law that a State has to go through to come up with the proper coastal zone management program and in the case of our own State, California, as I understand, is well ahead of any other State.

In California, we have gone for the voters. We have it approved for the most part on the part of the voters. There are a number of little areas let out, but the Department tells me that California is going as fast as they possibly can but under no circumstances can they have a program that can be approved prior to 1976.

Now, if they are ahead of all the other States and if they have already gotten this past the voters and if everyone is using us as an example as to how other States go and they cannot do it before 1976, how can we expedite it faster than that?

Mr. MCCLOSKEY. I do not quarrel with you at all, but let us suppose in the next 60 days the President states that the national security requires that we need 3 million barrels of oil per day from offshore drilling in the United States; that this has to be accomplished within 5 years, and that means at least, that the starting of exploration is immediately.

He comes back to us and says, this is the national energy policy of the United States.

Certainly, we do not want to hold up that offshore drilling in California for 3 years if this committee then concedes that that should be the national energy policy.

Mr. ANDERSON. In our own law here, we have said, all right, the Secretary of Interior shall be the one that does the drilling for oil out there but we have made the procedure that there is a conflict between the Secretary of Interior and the State in this coastal zone management program.

We have set up, I believe, the Secretary of Commerce as the one who makes the final decision.

I think in this law that we passed last year that we tried to cover these various bases so if there is an emergency and if the Interior Department says we want to do something in California, or Alaska, and if those States management program does not go along with that and they cannot work out an agreement, that then the Secretary of Commerce is the one who would come and make the decision.

He is under the same President of this country and it would seem to me this is a reasonable workable solution.

Mr. MCCLOSKEY. But not if the Governor has a veto power.

Mr. ANDERSON. He would not.

The Secretary of Commerce would do this and I am talking about the present law.

Mr. MCCLOSKEY. That is right.

I am talking about the law that is being considered now.

Mr. ANDERSON. We are talking about the gap.

Mr. McCloskey. Am I not correct that the gentleman's bill, H.R. 17517, would give the Governor of the State an absolute veto over any offshore drilling which would affect the land on his State for a period of 3 years?

Mr. Anderson. Only until a program has been agreed upon by the Secretary of Commerce and that State involved.

Mr. McCloskey. But that is a veto power.

Would the Secretary of Commerce in the gentleman's bill have the right to override the Governor's veto?

Mr. Anderson. I would have no objection to that, if that were a needed point.

What we are trying to do is fill in this gap between now and the time any State can come in with an approved program that has been approved by the Secretary of Commerce, that we have some input and assuredly we have to depend upon our Governors to some extent to help.

Mr. McCloskey. I appreciate that, but I thought it was appropriate to bring it up in the gentleman from Alaska's presence because concerning the Alaskan pipeline, the gentleman is on the opposite side of the issue. He is asking that we use Federal preemption to force this through in view of the national emergency for the need for the oil, and frankly, I think I would go along if I had known the facts of the energy crisis that I know now, where I would have voted to expedite the Alaskan pipeline.

Mr. Downing. This is all very interesting and it is significant, and I am glad you brought this up, but we do have a rather lengthy witness list and I would like to proceed as expeditiously as possible.

Any further questions of the Congressman?

Mr. Eckhardt. Mr. Chairman, I have a brief comment on these various bills.

As I understand it, the first Anderson bill creates a permanent veto power in the States, to veto any permit license or other authorization issued by a Federal department, which I would assume would include a veto of a license from the Interior Department with respect to the establishment of an offshore port.

Mr. Anderson. Only for those areas seaward of a State sanctuary. These are all very small sections.

Mr. Eckhardt. Or where a State says it wants to establish a sanctuary.

Mr. Anderson. I think we are only talking about, or my bill says only an established State sanctuary.

Mr. Eckhardt. But the second one talks about where a State is planning to establish a sanctuary.

Mr. Anderson. On the second one, that is where we try to fill the gap in the bill or the law we passed, and the times these programs will go into effect.

Mr. Eckhardt. In the second bill there would be a 3-year veto which I think would reach the bill that we previously passed with respect to offshore ports.

Now, in that case we took the position that the States should not have the absolute veto power.

The Public Works Committee took the other viewpoint and so did the Senate, but I would just like to point out that the first bill not only reaches oil leasing but it reaches any license or permit.

One other thing I should like to point out, and that is both the Anderson bills seem to me to possibly touch the carrying out of present licenses which are now in effect because the second bill refers to any support activities or any undertaking of development projects.

I would like to know whether or not the author of the bill really intends to disturb existing mineral leases.

Mr. ANDERSON. These that are not consistent with the State management program, that have been approved and have been also approved by the Secretary of Commerce.

We are talking on the second bill about a State approved program that has been worked out on all these points that are mentioned—we work with the Governor, we work with the Department, and everybody.

After the State has developed that program, which is a very complicated program, and after that, it has been approved by the Secretary of Commerce, then anything inconsistent with that the Governor feels is inconsistent with that during the interim period, he would have the veto power until that plan goes into effect.

Mr. ECKHARDT. That would not be retroactive to affect existing grants and leases?

I think we ought to make that clear if that is what we intend.

Mr. LAGOMARSINO. I wonder if I could ask a question of Mr. Anderson?

Mr. DON YOUNG. Mr. Chairman, before we do this, we are discussing Mr. Anderson's bill and if there are no further questions of me, I would like to be excused.

Mr. DOWNING. Can we release Mr. Young?

Mr. LAGOMARSINO. Yes.

I want to observe with regard to H.R. 16411 that although you probably did not intend to do so, that the way the bill is drafted I think you might end up with a situation where you would prohibit all drilling in the State of California in offshore waters. I say that because there are not, as you might be thinking, just a few sanctuaries along the shoreline.

There are also sanctuaries around the Channel Islands and if you go seaward from the Channel Islands because they are circular you would cover all waters that might possibly be drilled in or on.

I think this bill might be more far-reaching than you intend.

Mr. ANDERSON. It would only go out 12 miles at the most, anyway, because that is as far as we go.

The State goes 3 miles and the Federal goes another 9 miles, so the maximum if they took a circumference view around each island, would not exceed 12 miles.

I do not know that much oil drilling will bet hat close to those islands anyway.

Mr. DOWNING. It could extend further than that, all the way out to the Continental Shelf.

Mr. ANDERSON. Our Continental Shelf does not go out that far.

Mr. LAGOMARSINO. We are talking about leasing, if the gentleman will yield, they are talking about leasing and from looking at the map far more than 12 miles from the islands.

Mr. ANDERSON. In the first bill the Governor is the one who makes that decision.

Again, I think if there is an area where the Governor feels it is all right to drill for oil, our own State Lands Commission has been drilling for oil long before the Federal Government got into it so we are not opposed to oil drilling, but our feeling is that it should be drilled in the right place and with proper precautions.

The oil well that blew up in Santa Barbara, if it had been under State land control, it probably would not have blown up.

Mr. DOWNING. Gentlemen, I would like to get on with our witnesses.

Our next witness is the distinguished gentleman from California who has expressed his concern to the committee many, many times, our friend and colleague, Representative Alphononzo Bell of California.

Mr. ANDERSON. Might I welcome Mr. Bell?

He is my neighbor and represents some of the most scenic and valuable beaches in the Nation, 75 and perhaps 100 miles of the coastline from Malibu, Santa Monica area, which joins my district and if anyone has beaches to protect, that are valuable, Alphonzo Bell does.

Mr. DOWNING. He represents them well.

STATEMENT OF HON. ALPHONZO BELL, U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. BELL. Thank you, Mr. Chairman and thank you, Mr. Anderson.

Mr. Chairman, I want to thank you and members of the subcommittee for the opportunity to appear before you here to speak to this subject of such vast importance to the State of California.

I would like first, Mr. Chairman, to associate myself 100 percent with the earlier comments of my distinguished California colleague, Mr. Anderson, whose bill I am cosponsoring. I want to especially thank him for the very meaningful initiative he has taken in this area.

All of us in Congress are well aware of the critical issues and questions facing us as we look to formulating a national energy policy in light of the current world energy crisis. It is generally agreed, I believe, that we must proceed with the orderly development of our domestic energy resources, in order to achieve at least a degree of self-sufficiency. But we cannot, and we must not act wantonly, with hasteful disregard for the consequences our actions will have for future generations of Americans. We must not, in the current energy crunch, abandon all environmental safeguards and in the process destroy vast segments of the remaining, unique natural beauty of this Nation.

Also, the Federal Government must take into account the needs and desires of the several States in formulating its national energy policies. In advancing any plans for drilling or production of oil or gas in areas of the Outer Continental Shelf, clearly the Federal Government should work in full cooperation with the States and should insure that Federal programs are not at odds with the respective States' comprehensive coastal zone management plans.

The Coastal Zone Management Act of 1972 requires consistency with State objectives and plans, but only after the Secretary of Commerce approves the State-adopted coastal zone management plan. Even though no State has yet adopted a coastal plan, the Department of the Interior has already made plans to lease 10 million acres of the Outer Continental Shelf by June of next year. My State of California's plan will not be adopted until late in 1976, by most projections, yet Interior

is already talking about leasing and drilling off the southern California coast.

In general, Mr. Chairman, I have grown to greatly question the procedures being followed by the Department of Interior and its Bureau of Land Management with regard to its leasing plan on our Outer Continental Shelf.

It is clear to me that the Department of Interior has violated important provisions of the National Environmental Policy Act of 1969. In particular, the Department has put forward no analysis of the broad issues of energy alternatives to Outer Continental Shelf oil development; has made no presentation of alternative areas to the southern California coast; and has provided no review of alternative areas within the southern California borderland.

My opinion is shared by the California attorney general's office which, on August 15 of this year, filed suit to enjoin the Secretary of the Interior and others from proceeding. That suit is now pending. I have also recently requested an investigation of procedure by the Comptroller General.

Recently the Department of Interior attempted to deny that a final decision has been reached to lease new offshore California lands for oil exploration and drilling. In point of fact, on September 18, 1974, the Deputy Under Secretary of the Department issued a memorandum to the Director of the Bureau of Land Management requesting by September 30 a "firm leasing schedule * * * that definitely includes the following items: One, 10 million acres leased in 1975—not just 10 million acres offered * * *."

Sixteen percent of this acreage had previously been designated as portions of the Outer Continental Shelf of southern California. There is no doubt at all that the Department of the Interior has reached a decision on this matter and will proceed with leasing unless we respond strongly and soon.

As citizens and responsible public officials, we are all, of course, concerned with the oil shortage in the United States. The fact of that shortage is not questioned by us. We realize that since 1968 our Nation has been using more oil than it has been producing. And within the past year, we have seen the danger of relying on the Middle East for the 1.2 million barrels a day we now import from that area.

But I believe there are clearly preferable alternatives to the Department's OCS leasing plan for meeting our current needs. These include the 3 to 5 billion barrel Navy petroleum reserve at Elk Hills; the estimated 20 to 100 billion barrels on the North Slope of Alaska; and the new discoveries on the southeast coast of Mexico which may be equal to the Alaskan reserves. All of these could provide more oil, and provide it more quickly and at less cost, than oil production near prime recreational beach areas. And they could produce a surplus of oil on the west coast long before offshore production would even begin.

I am concerned here today, Mr. Chairman, with the needless sacrifice of priceless environmental, ecological, and esthetic values. Many in our Government are now attempting to obscure the impact of offshore exploration and drilling on these values, even in the face of the 1969 blowout and recurring troubles on Federal leases off the Santa Barbara coast, with which we are so familiar.

Just recently, the Department of the Interior itself conceded in the 1,300-page draft of its environmental impact statement on new Federal offshore leasing that "major and minor oil spills are inevitable;" that "harm to air and water quality is impossible to determine;" and that an "unanswered question" is the effect on marine life of "chronic low-level pollution by different substances, including oil."

Last year 22½ million visitors enjoyed the beaches of Santa Monica Bay in my district in California. It is one of the most extensively used recreational areas in the world. We have been told that, partly because of the distance of the drilling from shore, and partly because of the use of underwater facilities, offshore operations will not be visible.

This is not true. For reasons of safety and maintenance, no major oil company would consider using underwater facilities in the present state of the technology. Offshore platforms would be clearly visible from many miles out. And the pressure on State and local governments to offset these wells with close-in drilling in order to participate in the revenues would be compelling.

Yet, even with the possibility of new revenue, the coastal cities of my district—Santa Monica, Manhattan Beach, Hermosa Beach, Redondo Beach, Torrance, Rancho Palos Verdes, Rolling Hills, Rolling Hills Estates, Palos Verdes Estates, Newport Beach, and Laguna Beach—have all adopted resolutions opposing new offshore drilling for the reasons I have given.

Mr. Chairman, we must, of course, get oil somewhere. I have suggested at least two alternative sources—our naval petroleum reserves in Elk Hills and in Alaska. But of upmost importance in any plans by the Federal Government to develop our Outer Continental Shelf resources is full and meaningful cooperation with the local and State governments.

The legislation introduced by my good friend and colleague, Mr. Anderson, which I have cosponsored, would help to insure this cooperation and would underscore the intentions of Congress when it enacted the Coastal Zone Management Act of 1972. I urge the subcommittee to move speedily to favorably report this urgent legislation.

Thank you, Mr. Chairman.

Mr. DOWNING. Thank you for a very forceful and persuasive statement.

Any questions of the Congressman?

Mr. McCLOSKEY. Let me ask you one question. If we use the Bauman bill, H.R. 17571, which essentially like the Anderson bill, says there will be no lease unless one, the coastal zone plan is approved by the Secretary of Interior and second, June 30, 1976 or, third, this alternative that the Persident of the United States certifies that the national security requires immediate commencement of offshore exploration and drilling in the area concerned, would you accept that as a possible amendment?

Mr. BELL. Well, you are adding another facet to the bill there, the military needs for offshore drilling.

Mr. McCLOSKEY. I do not like the idea of these leases with no obligation on the oil companies to commence the leasing immediately.

It seems we lose all sense of urgency unless the oil company wants to explore and drill.

I can see why the President wants Secretary Kissinger and Secretary Simon to be backed up with an ability to utilize our offshore facility, and I can understand why the Defense Department might concede it might be much harder to defend in some future occasion than would be the case with Elk Hills in California.

Mr. BELL. I do not think that would make any difference, certainly as far as Elk Hills is concerned.

With the sophisticated weapons today, it makes no difference whether you are offshore, or are in Elk Hills.

I think your concern is valid, but there are several inponderables you have to think about in this case.

For example, our production today in the United States is 11 million barrels a day. The needs of our Nation in the worst war imaginable could not be over 3 million barrels a day, so we have more than enough oil already in production to supply the military needs immediately and for a long time in the future.

The only sector that would suffer in the event of war would be the civilian economy.

Mr. McCLOSKEY. The question that I posed to you is simply this.

If we are to effectively manage the policy by a piece of legislation that slows up Interior, and it strikes me that the legisaltion before us could not be passed because of the omission of any national concerns. Mr. Chairman, rather than take the time of the witness I will submit my questions in writing.

Mr. DOWNING. Any further questions?

Thank you very much, Congressman Bell.

Our next witness is a familiar one, Dr. William J. Hargis, director of the Virginia Institute of Marine Science and vice chairman of NACOA. He is appearing today as a member of the executive committee of the Coastal States Organization.

Welcome to the committee, Dr. Hargis.

Mr. BAUMAN. Mr. Chairman, I have just pondered the gentleman from California's remarks, and before we go to the next witness I will observe for the record I know he was highly critical in recent years of the use of "national security" as an excuse for Presidential actions, and I was surprised at his recommendation as an amendment to my bill, but I am happy to consider it.

Mr. McCLOSKEY. I think it is delightful that we are reexamining our position from last year.

STATEMENT OF DR. WILLIAM J. HARGIS, JR., DIRECTOR, VIRGINIA INSTITUTE OF MARINE SCIENCE, COASTAL STATES ORGANIZATION

Dr. HARGIS. Mr. Chairman, my name is William Hargis, Jr. I am former chairman of the Coastal States Organization, and current member of the executive committee of the Coastal States Organization, and I am appearing here this morning for Senator A. R. Schwartz of Texas, delegate to the Coastal States Organization, and current chairman, but who is unable to be here, and sends his regrets to the committee.

The Coastal States Organization is, as the name implies, an organization of Coastal States consisting of a majority of the States, Commonwealths, and Territories that border on the oceans and the Great Lakes of the United States.

We are a member of the Council of State Governments, and we are an organization that has been supported vigorously by the Governors Conference itself.

The Coastal States Organization was active in bringing about the enactment of the Coastal Zone Management Act which has been the subject of much discussion today.

States are concerned with the development of energy resources—their proper development.

They are also concerned with the impacts—economic, social, and environmental—of offshore oil and gas development.

As you are aware, and have heard, a number of the States have development of coastal zone management plans underway.

My own State of Virginia has just recently completed a report related directly to Outer Continental Shelf oil and gas development, and should the committee wish it, I believe I could supply a copy.

Mr. DOWNING. I wish you would, please.

Dr. HARGIS. Our studies, both in Virginia and other States as well as in the Federal agencies, have led us to conclude that among the environmental, social, and economic impacts that are likely to result from OCS oil and gas developed and that have resulted currently from using OCS oil and gas supplies. The most significant impacts will occur on shore.

The States are concerned with energy, and with supplying our legitimate energy needs.

What seems to be the major problem right now is that there do not appear to us to be adequate safeguards to assure that reasonable State input will be made in a way that can effect the development of Outer Continental Shelf oil and gas.

I would like to quickly go through a statement which is laid before you. It is a statement that was developed by the executive committee of the Coastal States Organization at its meeting in November. It is the one that Congressman McCloskey's article referred to.

The principal purpose of the statement is to insure adequate State input, but exactly how to assure that input we must leave to the wisdom of the Congress. We would be willing to suggest alternatives when the time comes, Mr. Chairman.

We are concerned that adequate time be available to the States to develop positions prior to loosing the avalanche that will come with leasing.

Now, to read directly from the statement:

Findings: The nation's needs require development of additional areas of the Outer Continental Shelf (OCS). Such development will provide the nation with added supplies of domestic oil and gas and appears to be necessary even if strong energy conservation measures are effectively implemented.

Expanded OCS operations, particularly in virgin territory, will have significant landside impacts on the adjoining coastal States. Adequate coastal area management is necessary to minimize adverse onshore impacts. CSO believes that the Coastal Zone Management Act of 1972 (P.L. 92–583) provides the States with an instrument capable of allowing them to cope with OCS impacts. States have to anticipate demands for location of processing facilities, fabrica-

tion plants, storage and transmission facilities and will also have to prepare for economic and social alterations.

Under present arrangements, States adjoining Federally directed OCS operations have only a limited role in making lease plans and receive no direct financial benefits from offshore oil and gas production. States with OCS development off their shores estimate their costs in providing services and facilities to support these operations to far exceed added tax revenues. A study for the Texas Coastal and Marine Council released in November, 1974, places the total annual cost to that State at $62.1 million.

Before the Federal Government embarks on an expanded OCS leasing program, CSO believes the following questions need examination:

1. Would a gradual, phased leasing program be more compatible with industry's financial and technical capabilities and likely to produce a more equitable return to the U.S. taxpayer than a crash program attempting to lease in 1975 as many acres (10 million) as have been leased in the past two decades?

2. Does the Federal Government have adequate information about the value of the Shelf territory and resources it plans to lease and about possible environmental hazards?

The Federal Government's planned OCS lease sale program is the subject of controversy which can be reduced if State governments are given adequate time and resources to plan for new and expanded OCS operations and if the States receive direct financial returns from offshore operations off their coasts.

The Coastal States Organization urges:

1. Coastal States should be actively involved in the planning process for OCS leases at the outset and should be given the opportunity for substantive consultation on the timing, location and extent of OCS lease sales and the resulting landslide facilities associated with such development.

2. Recognizing that the major impact of OCS development occurs on shore and that State and local governments will bear the burden of dealing with the economic, social and environmental consequences, special Federal financial assistance shuld be provided. Funds should be made available both for accelerated coastal zone management program development and to help State and local governments provide the services required by offshore operations (such as roads, schools, police and fire protection and navigation facilities).

3. States should be given the opportunity for substantive participation in environmental, social and economic studies which must precede firm OCS leasing decisions.

CSO supports expedient development of oil and gas resources on the Outer Continental Shelf (OCS) by private industry. The Coastal States insist that they be involved in a substantive way early in development of leasing plans and in environmental and coastal management studies which should precede leasing. The States should also receive a portion of the revenues from OCS development to offset the costs of providing services needed to support offshore activity.

That, Mr. Chairman, is the end of the OCS statement.

Mr. DOWNING. I think that resume just about sums it all up.

Tell me, do you favor the pending bills?

Dr. HARGIS. Yes. We have looked principally at H.R. 16411 and H.R. 17517, and find them consistent.

I think that the others, that is H.R. 17508 and Resolution 687 are also quite consistent.

These are the ones that we have looked at.

Mr. DOWNING. Does your organization, OCS, agree that the States have a veto power over Federal leasing?

Dr. HARGIS. Well, there are those who do, but you do recognize that among the States that are party to the coastal States organization are Texas, Louisiana and Alaska, and also Florida, and a number of other States, that are currently involved in OCS oil and gas development and use. Those involved do not favor veto.

Furthermore, it was the general opinion of the executive committee that calling for a veto would perhaps be a little strong in this matter since there could be overriding national concern.

What we are primarily concerned with is that the States have adequate time to prepare and have adequate input into the procedures.

Mr. DOWNING. Thank you.

Dr. HARGIS. Recognizing that a national need may exist.

Mr. DOWNING. Mr. Forsythe?

Mr. FORSYTHE. Thank you, Mr. Chairman.

Dr. Hargis, we thank you for your statement. I wonder on this point of the State veto, as I understand the legislation, I think perhaps with the exception of H.R. 16411, it is purely an intrameasure to delay any OCS activity until a State does have an opportunity, through its coastal zone management plan, to gain the input that you refer to.

Now, I do gather, and there might well be other amendments to perhaps strengthen that section, but as I see it, we are basically talking about something that will get us to the point where the States can function.

Do you agree with my analysis?

Dr. HARGIS. Yes, sir; that is correct.

Now, when you consider the spectrum of possible State interest, concerns and responses the coastal States organization did not come to the point of saying that it wished no Outer Continental Shelf development to take place until all the coastal zone management plans had been enacted and found satisfactory to the Secretary of Commerce.

What the coastal States organization did say is quite consistent with the statement in, for example, H.R. 17517, which says that no Federal agency may conduct or support activities or undertake development projects which may directly affect that State's coastal zone unless the Governor of the concerned coastal State certifies that such activities or development projects are consistent with the coastal State's activities and policies relating to the coastal zone.

This is slightly different language from that, sir, and this is generally the position that the Coastal States Organization as a group took. Some wanted it stronger. Some would have been satisfied with weaker language, but this is the position that was adopted.

Mr. FORSYTHE. Thank you.

Mr. DOWNING. Mr. Pritchard?

Mr. PRITCHARD. I have no questions.

Mr. DOWNING. Mr. Bauman?

Mr. BAUMAN. I would just like to ask Dr. Hargis, based on the experience of your group, what would you say would be the minimum time required for most of these States, an average time to accomplish this coastal zone management plan, and how does that compare with the leasing schedule you see?

Dr. HARGIS. I would say it would be unlikely that a full coastal zone management plan will be developed by any of the States prior to the time that California is able to do that, and you have already heard their estimates.

The proposed leasing schedules that we have heard, and have been made public, are rather close, follow rather close on.

Now, in the case of Virginia it is possible that the Governor will develop an OCS policy before the formal coastal zone management plan is enacted fully.

I believe that there are some other States in the same situation.

Mr. BAUMAN. Thank you.

Mr. DOWNING. The committee wants to thank you again, Dr. Hargis, for your valuable assistance to this legislation.

Our next scheduled witness is Mr. Mark O. Pilchard, president, Board of County Commissioners, Worcester County, Md.

Mr. BAUMAN. Mr. Chairman, Mr. Pilchard has informally agreed that Mayor Harry W. Kelly of Ocean City, Md., could testify before him.

Mr. DOWNING. Then our next witness is my dear friend, the mayor of Ocean City, Md., Harry W. Kelly.

Mayor Kelly, we are pleased to have you here.

STATEMENT OF HARRY W. KELLY, MAYOR, OCEAN CITY, MD.

Mayor KELLY. Thank you, Mr. Chairman and respected members of the committee.

I would like to say at the outset that today I am representing the entire city council and the people of Ocean City, Md.

Very strenuously we oppose offshore drilling, dumping, or any onshore facilities.

Bear in mind that Ocean City, Md., is a strip of land between the Atlantic Ocean and bounded on the south by the inlets and the Delaware line on the north, a 10-mile strip of land with over $200 million worth of buildings there for recreational purposes in the last 2½ years.

We are fully dedicated to recreation and fishing. That is all we got to sell, and that is what we are there for.

At the Continental Shelf, or the Baltimore Canyon, of course, we are world renowned for our Maryland fishing grounds, and of course, Congressman Downing, you probably will take exception to this, but our beaches are second to none.

Just last summer, to give you a case in point, we had an oil spill right in the heart of our summer tourist season. Fortunately, the town of Ocean City has the equipment and manpower to clean those beaches, which we did. Unfortunately, down below us, at Assateague Island, the Federal Government had to call on the town of Ocean City—to clean this up, which we gladly did, at no charge. But the seriousness of it was that the people at Assateague Island or Ocean City, Md., could not go in that ocean until it was cleaned up.

At other times you see dead species of different fish, so we are oriented in three ways down there, fishing for pleasure, fishing commercially, and a recreational area for millions of people.

We oppose dumping, offshore drilling, and onshore facilities.

We mean business. I know these oil companies are pretty big, and the testimony here today, it was revealed that they would put a lot of pressure on. We are not afraid of that pressure.

I think last year was a good example of the sales talk that they can give you. There was no shortage of gasoline. All we had to do was talk with the little truckdriver and the little refinery worker. There was plenty of gas. We went through that period of not knowing about seven months, but after that we had the greatest travel that has ever been known in the history of our country.

We have passed our own ordinance which will take that 10 mile strip, prohibiting any onshore facilities whatsoever, by any oil company.

We will even enlist the aid of the State Legislature to do likewise. That is the extent of my statement. I want to thank you, Chairman Downing and members of this committee for allowing a representative of the city of Ocean City, Md., to speak here today.

I would be happy to answer any questions that you have. I do appreciate this opportunity of being here today and being allowed to speak our piece to you.

Mr. DOWNING. Thank you, Mayor Kelly, for taking the time to give us your thoughts.

You are pursuing this with the same vengeance that you pursued topless bathing suits last summer, and you were very effective in that.

Let me say that there is a great deal to what you have told us here. Of course, you do not want to deprive the people of gasoline to get to your beach.

Mayor KELLY. No; this is where again I think Congress should not just take and, you know our problems better than I do, but in doing what research I could the last time I told the people of Ocean City, Md., in the spring of the year, when I was begging Governor Mandell for gasoline, and calling Congressman Bauman here, and others, which we did, we got 17,000 gallons, but if you went up in the Delaware Valley, or went into Chester, Pa., and talked with the refinery boys that worked in there, their tanks were running over, and I think the results later on show it, that there has never been such travel as there was last summer.

If we take the 7 months when we were told there was a shortage, and add to that what happened in the last 5 months, that is the greatest travel period that this country ever experienced, and there was plenty of gasoline.

We have to establish, Congressman Downing, the authenticity of these reports we are getting out of the Interior Deparment and from the oil companies.

I think this is our problem, because seriously I do not believe them.

Mr. DOWNING. Thank you.

Mr. Bauman?

Mr. BAUMAN. I would just observe, as the chairman already has, that Mayor Kelly is far better known than not only the Congressman of the district in which he resides, but probably the Governor of the State of Maryland, and probably a number of other officials of the State of Maryland. I think he would agree with my observation that it would be very little use to have all the gasoline you would need to get to Ocean City, and other recreation areas, if those areas were not useful for recreation, and that is really what we are talking about.

Mr. DOWNING. Thank you very much, Mayor Kelly.

Mayor KELLY. Thank you.

Mr. DOWNING. The next witness, and we will try to get you in here, is Mr. M. William Miller of Ocean City, Md.

STATEMENT OF M. WILLIAM MILLER, VICE PRESIDENT, SECOND NATIONAL BUILDING & LOAN, OCEAN CITY, MD.

Mr. MILLER. My name is M. William Miller from Ocean City, and vice president of the Second National Building & Loan.

I serve on their board of directors, and the executive committee, and I primarily represent the banking interests of Ocean City, and Worcester County, and at the moment I am not prepared to speak either for or against offshore drilling as such, because we have not had an opportunity to study what it will do to the atmospheric conditions of our coastal beach, nor have we had an opportunity to study what spillage will do, how the people would be indemnified with the hundreds of millions in property value along the coast of Worcester County.

Worcester County is primarily a county of agriculture and tourism, as are your two beautiful counties to the south, Mr. Chairman, and right now we are primarily concerned with the onshore impact of what offshore drilling will do.

We had certain growing pains, and at the moment we are not geared for any heavy industry, not only in oil, but even in manufacturing.

We have water and sewerage problems. As a matter of fact, within rifle shot of the city hall of Ocean City there are a lot of land developments for private housing which are laid barren because the health department will not pass these, and they are very sizable lots, the minimum being 20,000 square feet.

My purpose before the committee today is that anything must be delayed until the county or the State or the municipalities, as the case might be, can make arrangements to handle the so-called onshore impact.

Again, I say we are not prepared for it. We will not be prepared for it within the next year or two, and I think that is the primary concern to us and the county that is based primarily on agriculture and tourism.

Thank you very much.

Mr. DOWNING. Thank you very much, Mr. Miller. Thank you for coming to the committee.

Next we will hear from Mrs. Judy Johnson, chairman of the Committee to Preserve Assateague, from Towson, Md.

Do you have a prepared statement, Mrs. Johnson?

Mrs. JOHNSON. Yes, Mr. Chairman.

I had to do it last night and I did not have a chance to get enough Xerox copies.

I have an original and four carbon copies with me.

Mr. DOWNING. All right.

You may proceed.

STATEMENT OF MRS. JUDY JOHNSON, CHAIRMAN, COMMITTEE TO PRESERVE ASSATEAGUE, TOWSON, MD.

Mrs. JOHNSON. What I want to do is to go into a little bit where we feel there has been little emphasis on conserving fuel and finding new sources of energy.

We certainly recognize the need for oil at this time.

Mr. Chairman, we have approximately 1,000 names on our mailing list, but when you consider that many of these represent Maryland, Virginia, and national organizations, and that they stretch across the land from North Carolina to Arizona and California, it is no exaggeration to say that we have hundreds of thousands of supporters, and the figure probably runs into the millions.

Before going on with my statement, I would like to mention that although I only know a few members of the Committee on Merchant Marine and Fisheries, I rather feel that you are old friends, for my very dear first cousin, Tom Pelly, was a member of this committee for something like 20 years and loved his association with you all.

Frequently people think environmentalists are against everything, but our group is made up of people with varying points of view and I think we have had a successful approach of recognizing that there must be give and take, that the interests and needs of all groups must be considered; that there must be something for everyone and no one group should have precedence over another.

Just as there is a need to dredge Baltimore Harbor, as it is one of the most important economic assets of the State of Maryland and it must not fall behind as one of the leading ports in the country, so we recognize the need for oil and the fact that we are faced with an energy crisis.

We feel, however, that there has been too little emphasis on conserving fuel and finding new sources of energy. Also, we do not believe additional taxes on gasoline are the answer. This would hurt the lower income groups while not affecting the consumption of gas by those who can afford higher prices. Some type of rationing would seem a more equitable way of handling the situation.

It is rather shocking when you consider that the United States, with 6 percent of the world's population consumes about a third of the world's energy.

Russell Peterson, in a recent article in Smithsonian Magazine hit the nail on the head when he said,

> That the advertisements which read "A nation which runs on oil cannot afford to run short" should have read "A nation which runs on oil is certain to run short."

Further, we must remember the warning of geologist Preston Cloud of the University of California, who said to the Committee on Resources and Man, when evaluating the petroleum potential of the Continental Shelves, "Even the largest quantities likely to be found offshore will not greatly prolong the exhaustion of estimated reserves at current rates of consumption."

In the June 1974 Smithsonian, Wesley Marx stressed that "the eventual answer lies not in getting our oil elsewhere (we are running out of elsewheres), but in changing or modifying our demands." We must consider the "high degree of environmental quality which is required for many uses of the shore: recreation, leisure, sightseeing, a sense of exhilaration or relaxation, serenity and solitude."

And when a utility executive complained over delays forced by environmental considerations, Alan Sieroty, of California replied, "You talk about how long it takes to build a powerplant; apparently you haven't thought about how long it takes to build a coastline." This article also pointed out that of the total 59,157 miles of U.S. shoreline, excluding Hawaii and Alaska, only 2 percent is in public ownership and available for recreation.

Many coastal industries, including oil storage tank farms and oil refineries, are capital rather than labor intensive; they require large areas of land and water, but employ few people. A more stable type

of economy employing more people and based on natural renewable resources are agriculture, fishing, and the tourist industry.

I am delighted to have the opportunity to speak on behalf of H.R. 17508 and House Congressional Resolution 687, introduced by Mr. Bauman, and endorse them heartily.

Since development of oil on the Outer Continental Shelf in the mid-Atlantic area could not help but have an effect on Assateague Island, I have been trying to read a great deal on the subject. Also, I might mention that I was one of four environmentalists from Maryland who was given the very interesting opportunity of visiting the offshore oil rigs in Louisiana as the guest of the Maryland Petroleum Association and the American Petroleum Institute. We were very impressed with the many safety devices that were on the rig we visited, and with the whole operation.

However, it was interesting that, only a short time after we returned to Maryland, there was an explosion and spill from a rig in the gulf. This only points out the error factor and that, no matter how careful you are, how many safety controls you have, accidents in one form or another occur and you cannot guarantee that there will not be oil spills offshore that could have disastrous effects on the communities along the coast whose economic well-being is dependent on summer visitors coming to the beaches.

The major source of revenue for Ocean City, and thus to Worcester County, Md., comes from visitors to the seashore, the majority of them in the summer, when oil would be most likely to reach the beach. There is little doubt that the beach at Ocean City and at the Assateague Island National Seashore would be an oily mess in the event of a spill, and this would be an economic disaster to Ocean City. It would, at least, temporarily ruin the many recreational activities enjoyed by 2 million or more annual visitors to the Assateague Island National Seashore, to say nothing of the tragic effects on shorebirds and pellagics, which are one of the area's greatest attractions.

Assateague Island is thought by many to be the crown jewel of the east coast. It is 37 miles long, with the northern 22 miles being the only portion of Maryland coastline that is in public ownership.

The 15-mile section in Virginia is mostly made up of the Chincoteague National Wildlife Refuge. With bridges at both ends, the island is accessible within a few hours' drive to the millions of people living in the megalopolis stretching from New York to Richmond, approximately one-fifth of our Nation's population.

It is a haven of refuge, not only for birdlife, but for people who crave to escape from the noise, bad air, heavy industry, crowded buildings, and vehicles of our cities. It is one of the few spots where present and future generations can see what our country looked like when our forefathers first stepped on these shores. It would be almost better to call it a national historic landmark than a national seashore.

We must keep places such as this where people can come and recharge themselves.

Coming from the west coast where there are more open spaces, I particularly recognize how lacking the East is in spots where one can get away from it all. The protection of an adequate amount of coastline for recreational purposes is a necessity, but Assateague's

ecosystem consists not of just the island but is intertwined in the ocean, the bays, and the marshes of the mainland, all of which are dependent on sound land use of adjacent areas.

Besides the recreational activity enjoyed along the coast, the majority of Maryland's Eastern Shore is farmland, and very rich farmland at that. With a growing concern over how the world's increasing population is to be fed, with food shortages occurring throughout the world, real planning and forecasting as to prime needs must be done before such an area is tranformed from agricultural to heavy industrial.

Would such use be the wisest utilization and in the best interests of the Nation's future? Letting industry spring up everywhere is not the answer to wise land use.

Lush marshes lie between the barrier islands and mainland, and border the coastal bays. These have great esthetic beauty and are a valuable natural resource being even more productive than the farmland.

Dr. Odum, one of the leading ecologists in the country, has placed a figure of $5,000 per acre as the value of marshland. These wetlands not only act as a flood control for the mainland, but they cleanse out many pollutants from entering the bay waters, and they are essential to the food chain and whole web of life. They produce the detritus which builds up organisms which result in the rich nursery grounds for fish and the variety of shellfish, they are the beginning which results in the important recreational and commercial fishing industry, they provide the habitat and food supply for many varieties of migrating waterfowl and other forms of wildlife. All of these things are important to the health and welfare of our country and its citizens.

In the area of the North Sea, the people and communities had 5 years in which to plan how to handle onshore pressures caused by offshore oil development. We are being catapulted into handling this issue with the States being given no time to prepare for it at all, before they have had an opportunity to decide on and enact coastal zone management programs.

I have talked to people in Maryland's Department of State Planing and Department of Natural Resources, and they see no way that Maryland could enact such legislation in less than 2 years. They feel it will take at least 18 months of planning and discussion plus another 6 to 12 months for the legislature to act.

Furthermore, the coastal States of New Jersey, Delaware, Maryland, and Virginia have only just begun to hold meetings to determine the impact of offshore oil drilling and onshore facilities to handle such work, and how the States can develop a satisfactory regional plan.

Will it be better to concentrate industrialization in regions which now have some of that and preserve the other areas for recreation and farming, insuring that fish nursery grounds and natural resources are not destroyed?

I think Mr. Bauman's Resolution No. 687 puts the proper emphasis on the situation in that it states "that no Federal agency conducting or supporting oil leasing activities directly or indirectly affecting the United States coastal zone shall conduct or permit any such activities

prior to the development of an approved state management program under the terms of the Coastal Zone Management Act of 1972 by each state which may be directly or indirectly affected by such activities."

In H.R. 17508 to amend the Coastal Zone Management Act of 1972, Mr. Bauman's bill states:

"(i) Notwithstanding any other provision of law, the Secretary of the Interior may not grant any lease for the exploration and development of oil and gas deposits of submerged lands of the Outer Continental Shelf which are seaward of the seaward boundary of any coastal state before whichever of the following dates first occurs:

"(1) the date on which the Secretary finally approves the coastal zone management program of the state pursuant to section 306——

Which is the Secretary of Commerce and not the Secretary of the Interior, I believe, under the Coastal Zone Management Act—"or

"(2) June 30, 1976."

We believe this should be changed so that if a State has not adopted a coastal zone management program by June 30, 1976, the date would be extended until such a program has been approved.

Delaware is fortunate in that it already has legislation to protect its coastal zone. While the date of June 30, 1976, would give Maryland more time and would help the State considerably, it is doubtful that a coastal zone management program could be adopted by that time.

I also wonder if the bill could not be expanded to increase the area of protection so that the States could have a board to which they could appeal, and so that they could have some protection in the event an adjacent State decided on development which could have adverse environmental and economic effects.

For instance, if one State felt it more important to retain its agricultural lands, whereas its neighbor sanctioned heavy industrial use within a few miles, this would have a major impact on labor prices, housing, and other contingencies.

The major effects of oil drilling on the Outer Continental Shelf will be onshore development. If the life expectancy of OCS drilling in the Baltimore Canyon is but 20 years, as has been suggested, what would happen to the communities and supporting services that were provided for the workers and their families?

The State would have spent millions on roads, water supply, hospitals, schools, sewage treatment plants, et cetera, and in a relatively short period of time would be left with a mammoth unemployment problem. No revenue would be coming in but services, unemployment insurance, and welfare would have to be paid.

Furthermore, under the present system, the States would be providing all the services for the personnel operating the offshore oil rigs—berthing places for boats, heliports, and airports, besides all the community needs. The cost to the State would be substantial, but it would not share in tax revenues from the oil company profits if these take place beyond the 3-mile limit.

A study in Louisiana showed that there was a net deficit of $37,700,000 for 1972 in supplying the costs for government services in the State for people involved in offshore work, and this figure would be much higher today with inflation.

These are very real problems which must be considered. We need oil, yes, but we cannot afford to ruin our States' agricultural and recreational lands, which are sorely needed for a sound and healthy future, by turning them over to heavy industrialization when these requirements might only last a little more than 20 years.

I highly commend Mr. Bauman for introducing his legislation, but I wonder if there should not be an additional clause giving the Governor of a State the right to request a delay in the leasing or a ruling on the adjacent State's development. This could be referred to a board with a membership consisting of a representative from the Council on Environmental Quality, the Environmental Protection Agency, the Secretary of the Interior, the Administration of NOAA, and possibly the Governor of one of the coastal States.

Another matter of concern is the method in which the lands are to be leased. No one has any real conception as to how much oil is there.

The Department of the Interior proposes to lease the land without knowing any of the answers. Perhaps the Outer Continental Shelf oil development should be undertaken in two steps, each requiring an environmental impact statement.

First, let there be exploration as to what exactly is there. This is to be undertaken jointly by the Department of the Interior and the oil companies, thus giving the Government the information on exactly what is to be leased.

Second, after the tests are in and what is there is known, then let the lands be leased. Knowing what is there, we would be in a better position to know how the drilling should be serviced and handled, and where it should be piped to be refined.

I am indeed grateful for the opportunity to express these thoughts.

Mr. DOWNING. We thank you very much, Mrs. Johnson, for an excellent statement.

The quorum bells have rung so we will have to adjourn.

The subcommittee will stand in recess until 2 p.m. this afternoon.

[Whereupon at 12:25 p.m., the subcommittee recessed, to reconvene at 2 p.m., the same day.]

AFTERNOON SESSION

Mr. DOWNING. The committee will please come to order.

The committee is pleased to have with us this afternoon Mr. Mark O. Pilchard, president, Board of County Commissioners, Worcester County, Md.

Mr. Pilchard, I understand you have a plane to catch at 3 o'clock.

STATEMENT OF MARK O. PILCHARD, PRESIDENT, BOARD OF COUNTY COMMISSIONERS, WORCESTER COUNTY, MD.

Mr. PILCHARD. Yes, sir, I do. I could have left and said nothing and let Harry Kelly's presentation suffice for both. But I want to read a resolution that the Worcester County commissioners passed some time ago.

Mr. DOWNING. We would be delighted to have you do so.

Mr. PILCHARD. So I shall read the resolution and if there are any questions, I will be happy to answer them.

The resolution reads:

RESOLUTION PASSED BY BOARD OF COUNTY COMMISSIONERS, WORCESTER COUNTY, MD.

Whereas the Board of County Commissioners of Worcester County, Maryland, have been entrusted with the preservation and enhancement of the natural beauty of the beach and waters in and adjacent to Worcester County, Maryland, for the benefit of the citizens of Worcester County, Maryland, and sojourners therein; and

Whereas the County Commissioners of Worcester County, Maryland, have been informed of certain actions under consideration by agencies of the Government of the United States of America in regard to implementation of offshore oil drilling, offshore super-ports and offshore waste dumping in the Atlantic Ocean; and

Whereas the County Commissioners of Worcester County, Maryland, believe that such proposed actions may present a clear and present danger to the health, safety and economic welfare of the citizens and property owners of Worcester County, Maryland, who would be irreparably harmed by offshore oil drilling, offshore super-ports and offshore waste dumping which might well pollute the resort and which would deeply affect the livelihood of the citizens and property owners which depend upon a clean and beautiful natural environment.

Upon motion duly made, seconded and unanimously passed, it was

Resolved by the County Commissioners of Worcester County, Maryland, That the County Commissioners of Worcester County, Maryland, do hereby express their disapproval of and opposition to offshore oil drilling, offshore super-ports and offshore waste dumping because of the pollution risks involved in said activities at the present time; and be it further

Resolved, That the effective date of this Resolution shall be the date of its passage.

The foregoing Resolution was unanimously adopted by the Board of County Commissioners for Worcester County, Maryland, this 26th day of November 1974.

Mr. PILCHARD. That is the end of our resolution.

To go a little bit further into our reasoning, one point, as has been brought out here before today, is that the State has no coastal zone management program.

The main thing, however, as Harry Kelly stated this morning, our county is a recreation-oriented county. Without a clean environment, the people are just not going to come there, and it has all been brought out how these things could adversely affect us, and there is no point in my going into that, but to show the effect of recreation on Worcester County, I have some figures from the department of assessments and taxation.

Mr. Chairman, we have nine election districts in the county. There is no No. 6 so it turns out that Ocean City is the 10th election district.

In the 10th election district, there are $222,289,000 of assessed valuations.

In district 3–A, which is Ocean Pines and which is a recreation community and directly involved with recreation-oriented development, there is $29,759,000 of assessable value.

Mr. DOWNING. Is that adjacent to Ocean City?

Mr. PILCHARD. It is just across the bay from Ocean City.

As a matter of fact, you can look across the bay and you see Ocean City from Ocean Pines.

Now, in this district and this one subdistrict, we have made Ocean Pines into subdistrict 3–A for tax purposes, so we could keep a detail of what is happening there, we have a total of approximately $252 million assessable base.

Now, this is 78 percent, mind you, of the assessable base in the county of Worcester, the closest district to either of them is the Berlin district,

which still gets the recreational influence with an assessable base of $21,794,000.

That is enough said about that. Without recreation, we do not have an industry. We do not have any heavy industry in the county. We are agriculturally oriented, besides recreation.

We have some broiler industry and some of the related industries, but the commissioners are becoming more concerned with the environment, the ecology of the county and how it is going to develop.

Our comprehensive master plan does not now adequately address itself to offshore drilling or to any of the development that would come with it.

We are having an update at this time of our comprehensive master plan, and we will address this. But this is going to take time and we have got to have the input of the county citizens to arrive at a decision as to how we should manage our county if this development is going to take place.

We know that if oil is discovered in the Atlantic Ocean, it will need to be utilized, and we know that this will cause development in our county.

We know, in order to have progress, you have got to have development but, again, this is the wrong kind of development and we feel that development for the sake of development is not necessarily progress in any sense of the word.

The surveys that have been made up in New Jersey indicating that an area adjacent to oil exploration could double within a period of a few years really scares us, because it has been indicated that the faster you have growth, the more it costs the Government for services. And we do not think it is right to the people of our county to ask them to pay heavier taxes to pay for services that are inevitable if these things occur.

In our resolution we said we did not want these things at "the present time." We recognize that there is an energy crisis. We recognize that Canada, for instance, is going to cut off her supplies to us.

We know that if there is a resource there, it is going to have to be developed. We are in favor of that, but this is not the time for it. We are not prepared for it in the State of Maryland or Worcester County, and the Federal Government, in no sense of the word, is prepared for it, because, as Harry Kelly said, they did not even have the facilities to clean up an oil spill on Federal property. And his town was asked to do it and they did do it.

Really, this is supporting Congressman Bauman's bill to give us time until we do have a coastal zone management program.

Now, frankly, the commissioners of Worcester County would rather not see onshore development as a result of any oil industry that comes about as a result of oil finds in the Atlantic Ocean.

We would rather have the people come there and be entertained and enjoy themselves and enjoy the clean beaches and the environment of the county, and this is what we are going to work for.

Mr. DOWNING. Suppose they did not have fuel to get there, Mr. Pilchard?

Mr. PILCHARD. I say—we recognize the fact that this resource has to be utilized—but we prefer not to have the facilities in our county.

If it has to be, we want the authority and the power—we have the responsibility—but we want the authority to be able to adequately control it so that it can be located in areas of the county, so that it will not too adversely affect our major industries.

Mr. Chairman, that is our situation. We will have to work with the State. I am not here to try to tell you that the commissioners of Worcester County have the wherewithal to make the studies and to plan and provide for the services that will be needed there. This is going to take State and local teamwork. I mean, this is the thing in all government, no matter what you are doing, you have to have teamwork. We have to work together, but this takes time. The wheels of government turn slowly at times. There are so many things to do, you just cannot do it this quickly, and to start leasing the land in the Atlantic Ocean in 60 days or within 1 year, and then start exploration with no more than we, as county commissioners, know of it, we have no alternative but to oppose it, as we say in our resolution "at the present time." When we are adequately convinced that the State of Maryland and the Federal Government have adequate proposals to protect the environment, the fisheries, and the shorelines from too much pollution we may reconsider. We know that there is going to be some pollution.

There is a chronic loss, small daily spills at all times, and I can understand these around oil drilling facilities, but let us be sure that we are able to control them to the maximum extent.

Now, we have no deepwater port in Worcester County. We do not feel that we are naturally equipped to set up for the development or for the servicing of offshore facilities.

At what time in the future we would agree to development, I cannot say, because we do not know enough now to make a projection as to what time it will take, but 18 months or until a coastal zone management program is adopted, is certainly soon enough.

I would have to very strongly, speaking for the commissioners of Worcester County, support Congressman Bauman's bill. I have talked to a number of people, in the last 24 hours, because Bob had called and said I may be asked to testify here sometime this week. I did not figure on being here today, but yesterday, after he told me, I talked to a lot of people in the county, and we are just concerned—period.

Now, that is as much as I care to say. I know the resource must be utilized. We cannot say let it go to pot. On the other hand we have to have people come to Ocean City, so let us take our time.

Mr. Chairman, the energy crisis is not that critical a problem right now, and this is where we stand. There will come a time when it is developed, and we want to be sure that the royalty part of it—and I do not know what royalties there will be from it or how it will be worked out—but there should be royalties from the drilling of this oil, and the State of Maryland and Worcester County should get their just compensation from it. I have no way of suggesting what this would be at this time.

I am sorry that the State was not represented here today. I, in no way, speak for the State, but I know the State must have substantial involvement in this before it becomes a reality.

Mr. DOWNING. Thank you, Mr. Pilchard.

And because you have a plane to catch, we will let you go without questions.

Mr. PILCHARD. Thank you very kindly.

Mr. DOWNING. Our final witness today is Mr. Lester Belcher, president, Maryland Watermen's Association.

Mr. Belcher, we are pleased to have you here.

STATEMENT OF LESTER BELCHER, PRESIDENT, MARYLAND WATERMEN'S ASSOCIATION

Mr. BELCHER. Thank you, Mr. Chairman. It is a pleasure to be here.

My name is Lester J. Belcher, Jr., executive director of the Maryland Watermen's Association. The MWA represents 11 county watermen's associations throughout the State.

The bill, H.R. 17508, proposed by First District Congressman Robert Bauman to delay offshore drilling and leasing until State management agencies can arrive at a suitable management program is a necessary and excellent piece of legislation.

We feel that the Maryland Department of Natural Resources, given the required amount of time, can develop a coastal zone management program that will take into account the needs and desires of the citizens of Maryland, of Worcester County in particular.

Worcester County is the only Maryland county bordering the Atlantic Ocean. We will certainly strive to assist the State in their program formulation and all we would like from you is the time to do this.

I am speaking, in particular, for the 300 watermen of the Worcester County area that depend wholly or in part on the seafood industry for their livelihood.

In 1972 alone, the ex-vehicle value of landing in Worcester County was over $2 million, and this in an economy that has the second lowest median income of any county in Maryland.

It becomes abundantly clear that State planning is necessary when one considers the economically important shellfisheries of Maryland, Delaware, and Virginia.

In 1972, in Maryland alone, over 7 million pounds of surf clam meat were landed. This is the type of industry that would be devastated by an oil spill or flowout such as occurred in Santa Barbara, Calif.

The present cleanup method for oil spills calls for coagulation and sinking of the crude oil so that bottom microorganisms can attack and decompose it. This is precisely where the surf clam, the hard clam, the lobster, and the crab are found.

We are therefore of the opinion that any and all offshore drilling operations should be carefully planned. We would oppose offshore drilling until it can be demonstrated to be consistent with good fishery management practices.

We believe the State and local governments to be in the best position to develop management programs that will best serve their own needs.

We consider the drilling that was done off the coast of Florida to be a warning example of the type of bulldozed legislation that runs the serious risks of destroying our environment and, at the same time, making ours a government of the corporation, by the corporation, and for the corporation.

We realize the contributions to our economy and country made by the large corporate interests, but, when a State such as Florida has no

chance to fully evaluate the impact of offshore drilling already underway, much less to develop good management practices related to that drilling, then it is time for some serious consideration as to just whose interests are receiving property in the management of a given State's natural resources.

The MWA does not want to see things handled in Maryland the way they have been handled in Florida.

Offshore drilling is only a part of the situation that must be considered. Onshore facilities must surely accompany offshore operations, and we believe that the planning for dry land facilities is an important area that also must be considered by State and local governments.

Now, the Coastal Zone Management Act of 1972 specifically states that Federal actions affecting the coastal zone shall be consistent with an approved State management plan. We understand that Maryland has received a grant under this act to develop a coastal zone management plan.

We would hope that provisions would be incorporated into that plan providing for ample involvement by local governments.

It is our understanding that North Carolina has already adopted such provisions into law, therefore protecting State as well as local interests. We would not like to see similar legislation delayed any longer than is absolutely necessary in the State of Maryland.

We believe a specific cutoff date for developing a management plan is unrealistic in itself because of the implication that offshore drilling will be acceptable. It may turn out to be unacceptable, and that possibility should definitely be taken into consideration.

We understand that a soon-to-be-released study by the Virginia Institute of Marine Science questions the study prepared by the Council on Environmental Quality.

The points in question seem to be the impact on the environment of offshore facilities and the possibility that subsurface ocean water can carry oil ashore and into the Chesapeake Bay. These points at least merit investigation to our way of thinking.

What are the navigable hazards created by the drilling platform?

What have other States, such as Texas, Louisiana, and California, done for offshore drilling?

What will be the local community economic and social impact of offshore drilling?

How can we get the oil out of the sediment while disturbing the environment the least?

We believe these questions should also be considered.

Assuming that it would be permissible to include negative verdict on oil drilling in a given site, we would consider a year and a half to 2 years to be ample time to develop a reasonable management program.

We hope you do not misunderstand our motives in suggesting that offshore drilling may be unacceptable in some areas. We actively opposed the building of a refinery in St. Mary's County by Stewart Petroleum Co. less than a year ago, and it stands to reason that an association such as ours will remain opposed to things of that nature.

At the same time, we understand the need for increased fuel production, and neither desire nor intend to stand in the way of progress.

Our intent is not to completely block offshore drilling. We would want reasonable safety and management programs, and we would want to reserve an adequate degree of authority for State and local governments in planning for drilling projects that are inevitable.

Congressman Bauman's legislation, therefore, appears to us to be a step in the right direction.

Mr. DOWNING. Thank you very much, Mr. Belcher.

You have made some very good points.

Mr. BELCHER. Thank you, sir.

Mr. DOWNING. Any questions, Mr. Bauman?

Mr. BAUMAN. No.

I just want to thank Mr. Belcher for coming here today, and you, Mr. Chairman, for holding this hearing this afternoon.

Mr. LAGOMARSINO. Mr. Chairman, I have no questions, but I would like to make a short statement for the record, if I might.

Mr. DOWNING. You certainly may.

Mr. LAGOMARSINO. Mr. Chairman, I think the main thing that we are talking about here today is whether Congress will honor the commitments implicit in the 1972 Coastal Zone Management Act and without amendments such as are proposed by Mr. Bauman and Mr. Anderson, or some variation, I think we find ouselves in a situation of giving the coastal States responsibility and authority for controlling coastal zone development on the one hand, while as a practical matter taking away a large portion of that control on the other.

What we are really talking about basically is the Department of Interior's plan to offer 10 million acres of OCS lands for oil drilling sometime next year.

There is absolutely no chance that any States will finish their coastal zone plans by that date.

However, we recognize the need to develop our offshore resources, if this can be done without undue damage to the adjacent States.

I think the States can best make that determination, or at least they should be included in the process.

These amendments, or some variation of them, will simply affirm the intention of Congress, as expressed in the 1972 act. And I would go along with my colleagues and urge that we take immediate action on these amendments.

Thank you, Mr. Chairman.

Mr. DOWNING. Thank you very much.

Again we thank you, Mr. Belcher.

The subcommittee will recess now, to meet tomorrow at 10 a.m.

[Whereupon, at 2:25 p.m., the subcommittee recessed, to reconvene at 10 a.m., Wednesday, December 11, 1974.]

FEDERAL-STATE RELATIONSHIPS IN COASTAL ZONE

WEDNESDAY, DECEMBER 11, 1974

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON OCEANOGRAPHY,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:05 a.m., in room 1334, Longworth Office Building, the Honorable Thomas N. Downing [chairman of the subcommittee] presiding.

Mr. DOWNING. The subcommittee will come to order.

This morning the subcommittee will resume hearings on H.R. 16411, H.R. 17517 and other related bills.

We are pleased to have with us as the first witness this morning, Mr. Roy Hughes, Assistant Secretary, Program Development and Budget, Department of the Interior.

Mr. Hughes, you may proceed.

STATEMENT OF ROY HUGHES, ASSISTANT SECRETARY, PROGRAM DEVELOPMENT AND BUDGET, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY DONALD TRUESDELL, PRICE McDONALD, FRANK EDWARDS, AND DARIUS W. GASKINS, JR.

Mr. HUGHES. Thank you, Mr. Chairman.

Mr. Chairman, I am happy to be here this morning to testify on behalf of the Interior Department on H.R. 16411 and related bills, all of which would amend the Coastal Zone Management Act to provide that no permit, license or other authorization be issued by a Federal Department or agency for activities seaward of a State established marine or estuarine sanctuary unless the Governor of the State certifies that the permitted activity is consistent with that act and with the purposes of the State marine sanctuary.

H.R. 17508 would prohibit offshore leasing until June 30, 1976, or approval of the State plan by the Secretary of Commerce, whichever occurs first.

House Concurrent Resolution 687 simply calls for no development until the State develops a plan.

H.R. 17517 is similar, prohibiting development, unless approved by the Governor of the State, but does limit the prohibition to 3 years from the date of the first grant for the program.

We recommend that none of these bills or the resolution be enacted.

However, because it appears that H.R. 16411 would create the greater number of problems for our OCS leasing program the bulk of my testimony will be addressed to that bill.

Mr. DOWNING. That bill would provide no permit be issued unless the Governor certifies it is consistent with his plan?

Mr. HUGHES. That is correct.

The effect of any of these bills would be to subvert the intention of the Submerged Lands Act and the Outer Continental Shelf Lands Act.

These statutes establish distinct geographical areas of Federal and State jurisdiction and give the States extra territorial jurisdiction over activities authorized by the Federal Government on the Outer Continental Shelf.

Such a shift in the balance of State and Federal jurisdiction should not be taken now.

The objectives sought are being achieved under the existing statutory authorizations and enactment of any of these measures could postpone or prohibit the development of offshore oil as well as deep water ports.

The goals sought by these measures are already achievable under the rational and well conceived mechanisms of the Coastal Zone Management Act.

The act recognizes that the development of each State's coastal zone cannot proceed in disregard of programs of significance on a national and regional level.

It provides a system under which the States may designate areas of permissible land and water uses and designate the means by which the State shall exert control over such uses.

The act insures that activities conducted by Federal agencies and applicants for Federal licenses or permits which may affect the coastal zone shall not be undertaken in a manner inconsistent with the approved State management program.

Paragraph (3) of subsection 307(c) already prohibits Federal agencies from granting licenses or permits until the State concerned has concurred with the applicant's certification that the proposed activity complies with the State's coastal zone management program.

This requirement applies within the United States territorial sea and covers activities affecting land and water uses within the coastal zone.

The Secretary of Commerce has the authority under paragraph (3) to substitute his judgment for that of the State by finding "that the activity is consistent with the objectives of this title or is otherwise nesessary in the interest of national security."

H.R. 16411 and the other bills would negate this override authority for any area seaward of an estuarine or marine sanctuary.

Section 306(c) provides that prior to approving any coastal zone management program, the Secretary of Commerce shall find that the State has developed and adopted its program after giving an opportunity for full participation by relevant Federal agencies.

The Secretary must find that the program provides for adequate consideration of the national interest involved in the citing of facilities necessary to meet requirements which are other than local in nature and that local land and water use regulations adopted by a coastal State do not unreasonably restrict or exclude land and water uses of regional benefit.

The objectives of H.R. 16411 are to provide environmental protection for highly valuable or unique marine sanctuaries, but it has two undesirable features.

First, H.R. 16411 may not provide the desired protection.

Environmental damage from oil spill can occur from numerous directions and distances depending upon sea-State, weather, or currents.

To define an area seaward of a sanctuary that considers all these factors is nearly impossible.

Second, H.R. 16411 would give the States the authority to prohibit Federal oil and gas leasing seaward of a State marine sanctuary.

We believe that existing departmental procedures can provide adequate protection for these areas without precluding oil and gas development on the OCS.

These procedures include special operating regulations, coordination with State agencies in writing an EIS on each sale, initiation of baseline studies, as well as the removal of certain tracts which pose unacceptable environmental risks.

Furthermore, the meaning of the requirement that any program seaward of a marine or estuarine sanctuary be consistent with the purposes of the sanctuary is not clear.

Adequate authority already exists to provide for coordination of State coastal zone management programs and Federal activity.

The National Environmental Policy Act, and the Outer Continental Shelf Lands Act, as well as present provisions of the Coastal Zone Management Act permit or require consideration of the impact of leasing and other Federal activities on the State's programs.

The resources of the Outer Continental Shelf can make a significant contribution to the U.S. energy requirements, and with proper regard for the environment.

Moreover, the most direct alternative to OCS oil production is to continue to import large volumes of oil in tankers.

Current data indicate a higher volume of oil spilled per unit of throughput for tankers than for pipeline transportation that would be used on OCS development.

We believe it would be inappropriate for individual States to have veto power over development of specific areas on the OCS which have major regional and national significance.

On the other hand we understand the importance of these sanctuaries as well as working with local authorities, and we will continue to work closely with local and State groups on the development of the OCS.

These objectives generally apply to the other two bills.

H.R. 17517 would potentially prohibit offshore development for 3 years, from the first grant, but H.R. 17508 would prohibit leasing, which apparently H.R. 17517 would not, potentially until June 30, 1976.

Given the lag between leasing and development, either bill is equally adverse to the necessity of developing the OCS as expeditiously as possible in light of our energy needs.

Thank you, Mr. Chairman, that concludes my statement.

Mr. DOWNING. Thank you, Mr. Hughes.

Tell me, has the Department of Interior granted leases for offshore drilling?

Mr. HUGHES. The department has granted significant leases in the Gulf of Mexico and southern California.

Mr. DOWNING. Under what authority did they grant those leases?

Mr. HUGHES. Under the Outer Continental Shelf Lands Act, section 8 of that act.

Mr. DOWNING. In the granting of those leases, did they consult with the coastal States?

Mr. HUGHES. There has been consultation.

I might ask Mr. Edwards, Assistant Director of the Bureau of Land Management, to respond to your question.

Mr. EDWARDS. There has been consultation with these States in the past.

Actually, in the gulf area we found that a number of these States had begun development and drilling of the States waters prior to the time that the Federal Government got into OCS leasing operations, and a number of those State leases were confirmed by the OCS Land Act itself.

Mr. DOWNING. Did any of the coastal States involved have objection?

Mr. EDWARDS. No, I do not recall that any of the gulf coastal States had any objection nor did California at the time the Santa Barbara leases were originally offered.

Mr. DOWNING. I guess the point I am trying to get at is did the Department of the Interior just arbitrarily grant these leases without asking these States whether they wanted them or not?

Mr. EDWARDS. No, sir, I do not believe we could say that they were arbitrarily granted.

Now, the States knew about the offerings.

In fact, we consult with them very closely because of jurisdictional matters where there are tracts that overlap between a State and Federal waters and so we work closely with them and work closely with them in terms of actually surveying locations and boundary lines and State conservation departments are fully aware and in agreement with the offerings we make.

In fact, they have been given opportunity to comment upon the offerings that we have made.

Mr. DOWNING. Was the oil drilling operation off Santa Barbara a Federal lease?

Mr. EDWARDS. Well, there are both State and Federal operations in the Santa Barbara area.

If you are talking about the Santa Barbara spill, yes, this was on a Federal lease.

Mr. DOWNING. Does the Federal Government require any environmental protection when it grants the lease?

Mr. EDWARDS. Since the passage of the National Environmental Policy Act, before we offer any leases, we go through the process of preparing an environmental impact statement that fully describes the offering, the lease operations and the impact that might occur on those waters and on the adjoining coastal areas.

In each of the leases, we also provide stipulations that require certain matters to be taken care of in terms of environmental protection.

Those items are generally identified in the preparation of the environmental impact statement, special stipulations such as equipment

that is required for clean up in the event of a spill within a certain period of time, the handling of mud, drill cuttings and so forth.

We have also found that in some cases where there is a severe environmental impact we will debate certain tracts from the offering.

Through the process, we have considered a number of tracts and deleted those before we go to a sale.

In addition to that, the Geological Survey which supervises the operations on the lease, once they begin exploration or development, have continued to update and modify their operating regulations providing for environmental protection.

We have the listing of the most recent sales and tracts that were deleted from those sales because of environmental reasons or special stipulations that were put in.

Mr. DOWNING. I think that would be well to have in the record, and would you supply that for the record?

Mr. EDWARDS. Yes, we will supply it.

[Document referred to follows:]

MODIFICATIONS OF OCS SALES MADE DURING EIS PROCESS

Sale No.	Number of tracts	Number of tracts deleted	Number of tracts with special stipulations
29 (Louisiana)	86	8	18 had 1 special stipulation.
30 (Louisiana)	135	3	23 had 1 special stipulation.
31 (Texas)	129	0	127 had 2 special stipulations; 2 had 3 special stipulations.
32 (Miami, Fla.)	195	48	118 had 5 special stipulations; 29 had 6 special stipulations.
33 (Louisiana)	215	9	215 had 3 special stipulations; 2 had 4 special stipulations.
34 (Texas)	245	0	235 had 4 special stipulations; 10 had 5 special stipulations.
36 (Louisiana)	295	0	295 tracts (all) had 3 special stipulations.

Note: Special lease stipulations include special requirements for platform placement and pipeline placement; special archeological and biological surveys; special cleanup equipment availability; and special operating requirements.

DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
November 14, 1974.

BLM ANNOUNCES NEW TENTATIVE OCS LEASE SALE SCHEDULE THROUGH 1978

The Department of the Interior's Bureau of Land Management has released a new four-year planning document for proposed oil and gas lease sales on the Nation's Outer Continental Shelf. The announcement was made by Secretary Rogers C. B. Morton at a meeting November 13 with coastal States Governors, Governors-elect and their representatives at the White House, where plans for expanded OCS leasing were discussed.

The new planning schedule, prepared by the Bureau of Land Management which has responsibility for planning and conducting lease sales, projects sales through December 1978. Sales are projected in several frontier areas, including sales in the Gulf of Alaska and the Atlantic Seaboard in 1975.

These frontier areas have been proposed for oil and gas sale leasing to meet the Nation's current and future petroleum and natural gas energy needs. The undiscovered but recoverable resources of the OCS are estimated to be as much as 58 billion to 116 billion barrels of oil and from 355 trillion to 710 trillion cubic feet of natural gas.

The Secretary, in announcing the schedule explained that such a plan for developing the OCS is necessary to meet the Nation's energy needs through the 1980's. During this period, alternative energy sources will have only a limited impact, and while conservation measures may substantially reduce demand for petroleum, additional petroleum supplies will be needed.

The OCS resources represent the most practical immediate solution for providing more domestic oil and gas at a time when imports are uncertain and their cost is accelerating, Department officials said.

The new proposed leasing schedule is essential as a planning document so that industry and government can allocate resources. It also establishes sufficient time to conduct environmental baseline survey studies of the frontier OCS areas, and to prepare for appropriate environmental protection measures.

A draft environmental statement on the expanded and accelerated OCS leasing program for 1975 was made public on October 21. Public hearings on the accelerated leasing program are scheduled to be held in December.

The new four-year planning document is for interim planning purposes only. The Secretary of the Interior will not decide to hold any proposed sale of a specific area until after environmental impact statements are published and additional public hearings held for each area involved.

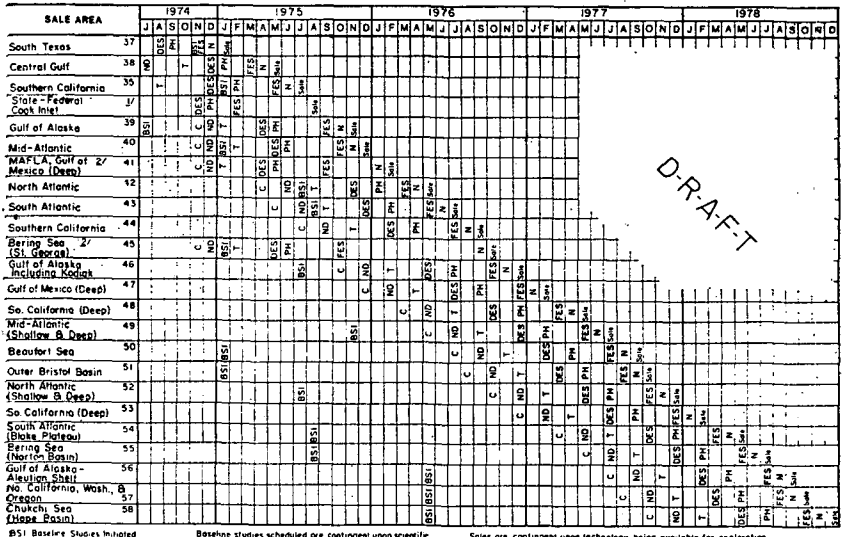
The new planning schedule proposes nine sales in Alaskan offshore waters and five in waters off the Atlantic Seaboard over the four-year period. There is also one sale proposed for the area off northern California, Oregon, and Washington.

Six of the proposed sales involve waters deeper than the 200-meter mark. The deep water sales are proposed for the eastern Gulf of Mexico, southern California, and the mid and southern Atlantic areas.

Leasing Schedule and Maps attached.

PROPOSED OCS PLANNING SCHEDULE

NOVEMBER 1974



BSI Baseline Studies Initiated
C Call for Nominations
ND Nominations Due
T Announcement of Tracts
DES Draft Environmental Statement
PH Public Hearing
FES Final Environmental Statement
N Notice of Sale

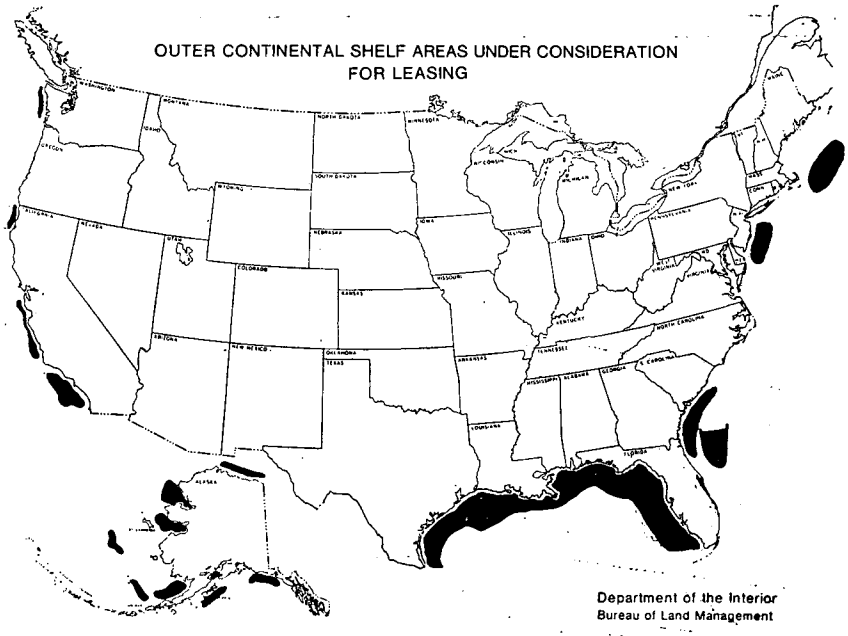
Baseline studies scheduled are contingent upon scientific personnel and equipment being available to perform the studies.

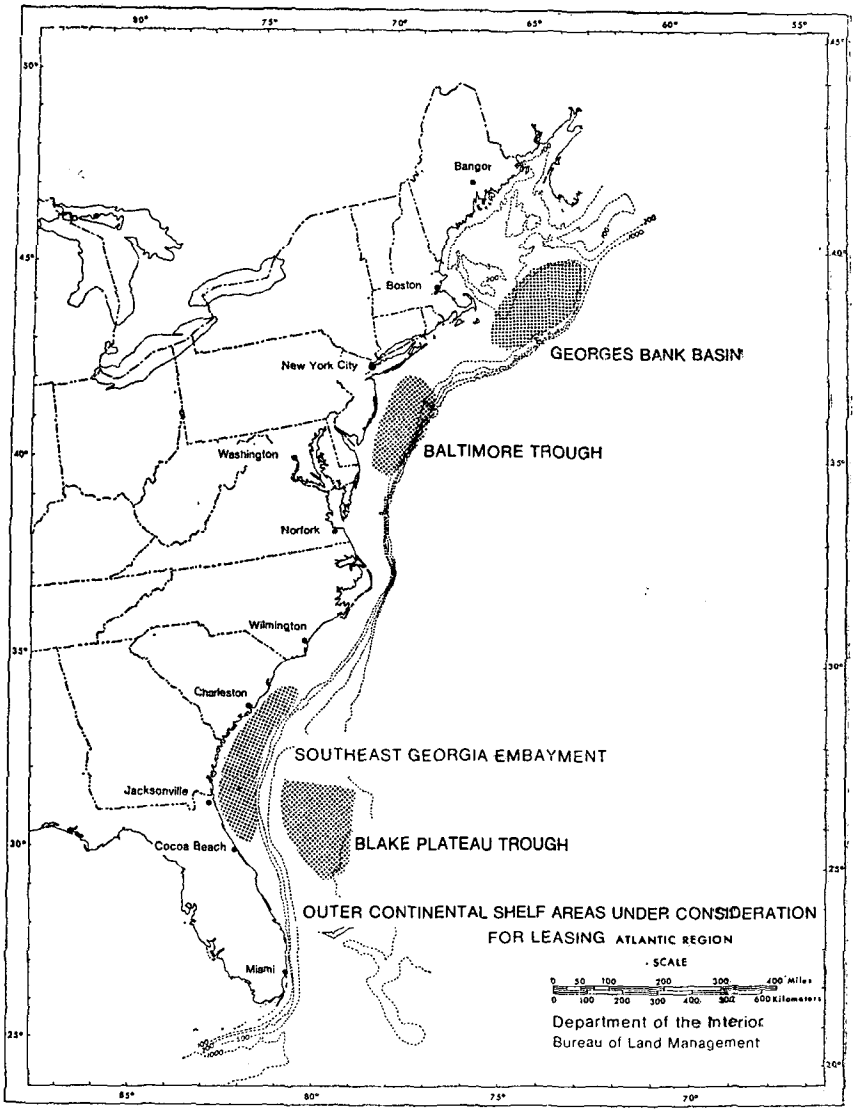
The holding of sales in the Atlantic is dependent upon the outcome of pending litigation with the Atlantic States regarding jurisdiction over this area.

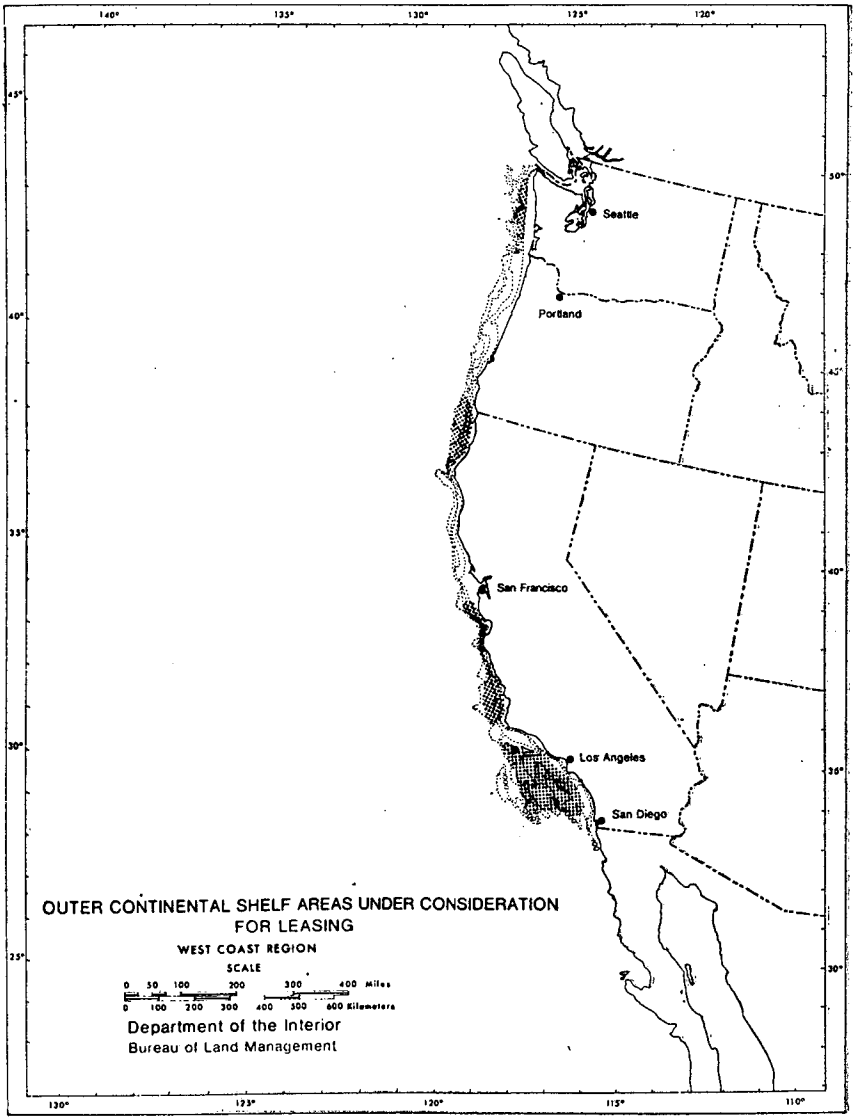
Sales are contingent upon technology being available for exploration and development. A decision whether to hold any of the lease sales listed will not be made until completion of all necessary studies of the environmental impact and the holding of public hearings; as a result of the environmental, technical, and economic studies employed in the decision-making process, a decision, may, in fact, be made not to hold any sale on this schedule.

1/ State may conduct sale.

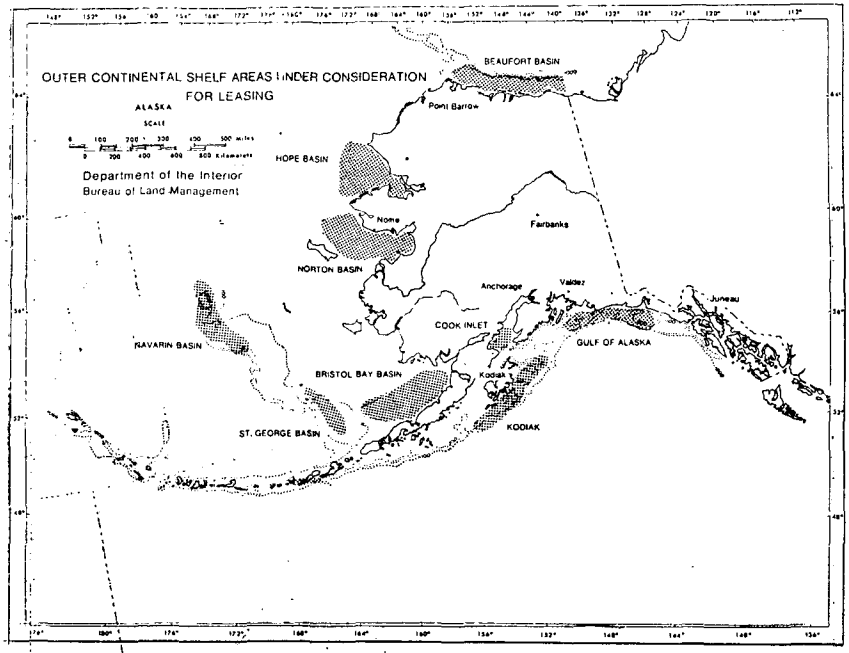
2/ These sales could be contingency sales for either Gulf of Alaska (39) or Mid-Atlantic (40).

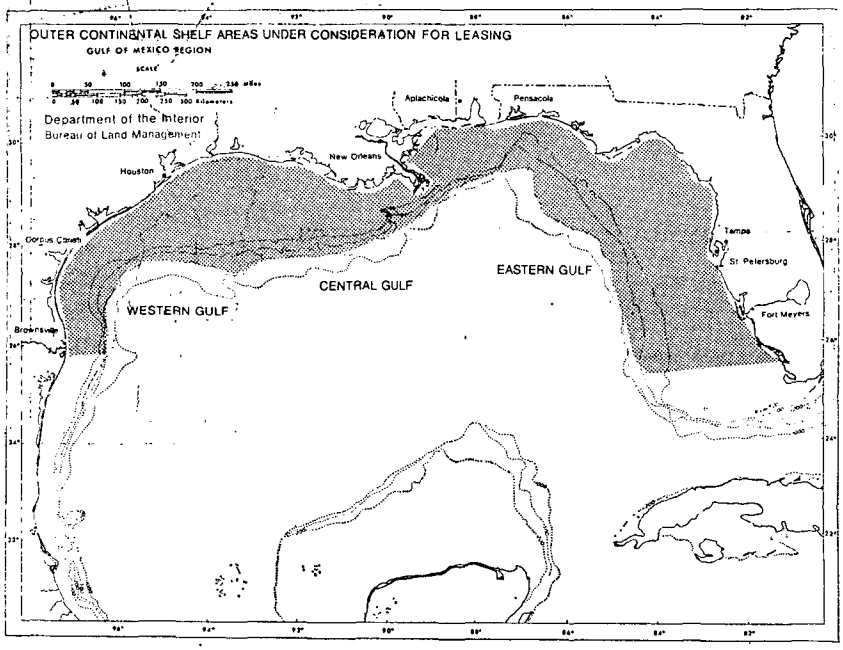

OUTER CONTINENTAL SHELF AREAS UNDER CONSIDERATION
FOR LEASING
Department of the Interior
Bureau of Land Management


Bangor
Boston
New York City
Washington
Norfolk
Wilmington
Charleston
Jacksonville
Cocoa Beach
Miami
GEORGES BANK BASIN
BALTIMORE TROUGH
SOUTHEAST GEORGIA EMBAYMENT
BLAKE PLATEAU TROUGH
OUTER CONTINENTAL SHELF AREAS UNDER CONSIDERATION
FOR LEASING ATLANTIC REGION
SCALE
Department of the Interior
Bureau of Land Management


Seattle
Portland
San Francisco
Los Angeles
San Diego
OUTER CONTINENTAL SHELF AREAS UNDER CONSIDERATION
FOR LEASING
WEST COAST REGION
SCALE
0 50 100 200 300 400 Miles
0 100 200 300 400 500 600 Kilometers
Department of the Interior
Bureau of Land Management

43-881—75——18


OUTER CONTINENTAL SHELF AREAS UNDER CONSIDERATION FOR LEASING
ALASKA
SCALE
Department of the Interior
Bureau of Land Management
BEAUFORT BASIN
Point Barrow
HOPE BASIN
Nome
Fairbanks
NORTON BASIN
Anchorage
Valdez
Juneau
COOK INLET
GULF OF ALASKA
NAVARIN BASIN
BRISTOL BAY BASIN
Kodiak
ST. GEORGE BASIN
KODIAK


OUTER CONTINENTAL SHELF AREAS UNDER CONSIDERATION FOR LEASING
GULF OF MEXICO REGION
SCALE
Department of the Interior
Bureau of Land Management
Apalachicola
Pensacola
New Orleans
Houston
Corpus Christi
Brownsville
Tampa
St. Petersburg
Fort Meyers
EASTERN GULF
CENTRAL GULF
WESTERN GULF

INT 12382-74

Mr. DOWNING. Now, tell me briefly how and why the Santa Barbara spill occurred.

Mr. EDWARDS. Well, probably I am not the best one to ask not being a petroleum engineer.

I can give you an explanation from a layman's standpoint, but I think it might be best to have the Geological Survey respond to that question.

Mr. DOWNING. I would prefer it from a layman's standpoint.

Mr. EDWARDS. It is my understanding the spill occurred because of the pressures from a lower reservoir escaped to an area where there were a number of fractures or fissures on the ocean floor which would not hold the pressure, and it permitted that to be vented to the surface.

However, Mr. Downing, this is in an area where there had been a number of oil seeps, continual oil seeps for hundreds of years.

There is a continuation of oil seepage along that area and that is why it occurred.

Mr. DOWNING. Well, your explanation has escaped me completely.

Would you repeat that?

Repeat what you just said in simpler terms.

Was there a break in the pipeline?

Mr. EDWARDS. No; there was not a break in the pipe as I understand it.

Mr. LAGOMARSINO. Mr. Chairman, let me try to explain it because I represent the area and have heard many explanations.

The best explanation, or the worst explanation I guess you can say, that I have heard was that because enough surface casing was not used there was an unprotected part of this fragile formation that blew out when the pressures from the lower reservoir escaped to the upper reservoir and it blew out.

Actually, the well blowout was controlled. The formation blew off.

Mr. ANDERSON. What you are saying for simplicity is they did not go down far enough for the casing.

Mr. LAGOMARSINO. That is right.

Had the casing been extended through the fragile formation, as would have been required in a State operated well, in all likelihood the spill would not have occurred, or had it been a blowout through the well itself it would have been easier to control.

Mr. DOWNING. You are saying they did not go down deep enough into the ocean bottom.

Mr. LAGOMARSINO. That is right.

They may disagree with that, but the story I get is had the State regulations been in effect and enforced on that Federal well that blowout would not have occurred.

Mr. DOWNING. But, of course, the State had no jurisdiction.

Mr. LAGOMARSINO. That is right, the State had no jurisdiction, and I think that is the question you are getting at earlier, Mr. Chairman, and was very relevant, although there was some consultation there was no consultation apparently or at least no coordination between these State and Federal regulations or enforcement of any regulations. While that is something perhaps that is not within the jurisdiction of this committee, I think we should be concerned with it. I also think there should be that kind of coordination because both the Federal Government and State are doing the same thing on the one side of the line 3 miles out.

Mr. ANDERSON. On something you might further understand as he did not give you the full explanation, it is on Federal land just outside the sanctuary established by the State.

Now, the State goes out 3 miles where we protect the sanctuaries for many reasons.

The Federal Government went out just beyond the 3-mile limit in a geological area that was not secure.

Mr. PRITCHARD. Now, let this other fellow answer.

Mr. DOWNING. There is a geologist down there.

Please identify yourself.

Mr. EDWARDS. I am Frank Edwards, Assistant Director of BLM for Minerals Management.

Mr. DOWNING. I was speaking to the geologist.

Mr. MACDONALD. I am Price MacDonald, petroleum engineer, Geological Survey.

If I may, I would just like to go back a little bit further on the blow out.

What you said about the casing and all is basically true, and our regulations have been modified to incorporate a deeper casing setting in that area.

The Santa Barbara channel area is highly faulted.

Some of the faulting comes right up to the bottom of the ocean there, and it is somewhat splintered and fluids can escape in this way as was evidenced by the seeps in the area.

However, as you go deeper into the Earth, there is a natural reservoir pressure in accordance with the overburdened, the gradients that are involved so that wells are controlled as they are drilled by having a mud column.

The mud serves to overburden any of these pressures.

It also serves to remove the cuttings as you drill.

Well, unfortunately, at Santa Barbara there was a human error involved.

I think the surface casing certainly would have been adequate if there had not been a mistake, but the driller inadvertently as he was pulling his dip from the hole tended to swab the well or to get the mud above his dip and he literally moved it a portion of the mud from the well bore as he was removing his dip.

Well, as he removed this mud column he took away his overburden and eventually the well came in and started to blow out.

OK, they reacted with their blowout preventers at the top and they closed them around their pipe.

Unfortunately, as the gentlemen have said there was a weak point below the surface casing and the well blew out around the pipe up through one of these fissures.

That, Mr. Chairman, is my understanding of how it happened.

Mr. DOWNING. How did you stem that flow?

Mr. MACDONALD. It tended to equalize itself.

Now, they control the well but the pressures had to sort of reach a balance.

Now, since that time and I believe it was the Drubridge Committee advocated and it was done, additional wells were drilled into the reservoir to keep the pressure down and to in effect, reduce the oil so it would not escape through a fault.

There is still some seepage from this fault even today, but it is minimized by a production process.

Mr. DOWNING. Do you agree with the gentleman's statement that had the State requirements been observed that the spill would not have occurred?

Mr. MACDONALD. I am not right up on State requirements.

I think it is questionable that if the pipe had been set a little bit deeper whether it would have blown out or not.

I question that.

I am not positive.

Mr. ANDERSON. Mr. Chairman, just for the record and for a matter of record, so there can be no question, had they gone down with the casing, had they cemented it down there is no question that there would not have been a blowout.

The State requirement at the time were much more rigid than the Federal Government's requirements, and the Federal Government came into an area they were totally unfamiliar with.

The State had been doing this for years.

Mr. Chairman, I was on the land commission for years.

You can go out and see manmade islands we build where there are geological problems, but this is a case where the Federal Government came into an area they knew nothing about.

Mr. Chairman, the California coast is different from the gulf coast geologically.

We are familiar with it out there, and they are not, and our rules are much more rigid and much more protective and I think every witness out there would testify that had the California State Lands Commission rules been in effect at that particular instant there would not have been a blowout.

Mr. DOWNING. Thank you, Mr. Anderson.

Let me ask you one final question.

Mr. LAGOMARSINO. Pardon me, if the gentleman will yield, I think the well may have blown out, because as the witness described when you pull the drill stem out the well would have been blown out, but that would have been a fairly simple thing to do.

And, as a matter of fact the shut-in shunting operation was successful.

The well itself did not blow out or did not remain out of control.

It was the formation and as Mr. Anderson has pointed out, the State of California has drilled something like over 900 wells and this type of thing has never occurred on State lands.

Mr. DOWNING. Thank you.

I have one final question.

On page 5, Mr. Secretary, you state, we believe, it would be appropriate for individual States to have veto power over development of specific areas on the OCS which has major regional and national significance.

Mr. HUGHES. That is a critical typographical error, Mr. Chairman.

It should read "inappropriate," Mr. Chairman.

Mr. DOWNING. How should that have read?

Mr. HUGHES. It should have read "inappropriate" and was inadvertently left out.

Mr. DOWNING. Thank you.

Mr. Anderson?

Mr. ANDERSON. Yes, I think Mr. Edwards was the one that went a little bit historically into this, and so we do not get the record mixed up, you gave the impression that the Federal Government came in with the support of the State or without opposition from the State.

Just to remind you. at the time this started the State had been in the business of drilling oil offshore out to 3 miles for many years, and then the case came up where the Federal Government now is going to go out into the waters beyond the 3-mile limit.

Do you remember the State of California took the Interior Department to court and said you do not have the right to do this in the area out to and including the islands.

Well, you people won the case.

You said the islands are not part of the coastline, you go only 3 miles out from the land itself and you cannot draw a line that includes all of the Santa Barbara islands and so forth.

Then consistently the State has tried to upgrade and to protest the various leasings by the Federal Government and so I think it should be made very clear that we do have a concern.

Now, we are happy that you have upgraded the requirement, and we hope there will not be any more blowouts, but I just want you to realize there was opposition to the Federal Government by coming in and there is still opposition to the Federal Government doing it, unless they do it in a manner that will protect the State.

Now, I believe this is the statement I want to clarify, Mr. Hughes.

On page 2, you talk about the goals sought by these measures are already achievable under the rational and well conceived mechanisms of the Coastal Zone Management Act.

You say that the act recognizes that the development of each State's coastal zone cannot proceed in disregard of program of significance on a national and regional level.

You go on and in a sense say how good that act is and I want to compliment you on endorsing the Coastal Zone Management Act because it is good to know that the Interior Department is going to recognize the Coastal Zone Management Act when it does go into effect, say in 1976, when we do get some coastal zone management programs in and at that time the person who makes the decision as to what is right or wrong will then be the Secretary of Commerce.

We are happy to know that you do endorse that as a department in this particular provision.

Now, a couple of little statements, however, I want to correct for the record.

You said the Secretary of Commerce on page 3 has the authority under paragraph (3) to substitute his judgment for that of the State by finding "that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security."

How does the Secretary of Commerce have the authority now when there are not any coastal zone management programs adopted by the States and approved by the Secretary of Commerce?

I do not believe he has any authority until these programs are adopted and then this whole new arrangement goes into effect.

Mr. HUGHES. You may be correct, sir.

I would have to defer to counsel on the exact interpretation of his authority, but it does presume so when it becomes operative.

Mr. ANDERSON. That is 1976.

Hopefully, California will be one of the first that comes in with a program that will be approved by the Secretary and they tell us 1976 is the earliest date we can expect that.

Then the Secretary of Commerce does not have the authority, so there's no authority of anyone right now.

Mr. HUGHES. We would agree.

Mr. ANDERSON. Now then, if that is the case, what happens in the interim between now and 1976?

Mr. HUGHES. We believe the now process by which we conduct the leasing program on the Outer Continental Shelf provides a means for the States to make their particular views and needs known in the process of both developing the environmental impact statement and on the public hearings which are held associated with the statement and with other public access to the Federal Government and Interior Department as the program progresses.

Mr. ANDERSON. Present procedure?

Then I am using my own State now where you announced you were going to allow leases to be given out for oil drilling off the shores of California, and you did not give the local people time enough to get their protest in so much so that I think every Member of Congress from at least southern California and I presume most of California contacted your department, and the Governor I believe, both outgoing and incoming, the mayor of Los Angeles all of whom said please delay, and so you finally gave us 2 months longer to get our protest in.

Now, is that what you mean by this meaningful working back and forth?

Mr. HUGHES. Sir, I might correct the record.

We gave 2 months for the deadline for the comments to be put in.

Mr. ANDERSON. That is not giving us time to get our protests in.

You are going ahead to lease these and you are giving us now 2 months' time to get the protests in before you go on with this program.

Mr. HUGHES. I guess I am not clear on the protests you are talking about.

The specific hearings you are referring to deal with our program, the environmental impact statement that deals with going from 3 million to 10 million acres. There will be subsequent environmental impact statements on each lease sale held. The one concerning California would come later on in the spring, so there will be, in fact, two public hearings that are offered so that the State of California and interested public, people in environmental or public interest groups at large will have an opportunity to voice their concerns over the Federal Government's proposed program.

Mr. ANDERSON. But I believe the State of California, the attorney general's office, the mayor of Los Angeles, all of them felt they did not have time, and you finally, under great protest, gave them 2 more months to be able to get their protest in against this whole procedure which we see scheduled right down the line that you are going to be giving oil leases in this coming spring.

Mr. HUGHES. No, sir; and let me correct the record.

I indicated this coming spring there will be hearings on the site, specific environmental impact statement for southern California.

Mr. ANDERSON. What is your schedule to have the leases?

Mr. HUGHES. No decision has been made to offer leases. We have proposed a tentative schedule of leasing which would include a southern California lease sale this summer, in July or August.

On the delays, not to quibble over what was requested but originally the city attorney of Los Angeles asked for a 2-week delay that was granted. Then a week and a half later he came in and asked for a 2-month delay. That was granted in a discussion with the Senators and Representatives from California.

Mr. ANDERSON. Everyone in California was involved in the act.

Now, on page 4, when you refer to my proposal, H.R. 16411, you say: "The environmental damage from oil spill can occur from numerous directions and distances depending upon sea state, weather, or current."

Further, to define an area seaward of a sanctuary that considers all of these factors is nearly impossible.

I do not understand that. How is there a problem defining a seaward or something seaward?

Mr. HUGHES. The statement refers to the laws of physics, which would say that you can have a spill occur from almost any point of the compass and drift in because of wind and tidal conditions, so we would, in fact, have to have a rectangular area rather than seaward.

Mr. ANDERSON. I believe my bill says where you already have a sanctuary established which is rectangular in effect now, going out 3 miles, that you would go out seaward.

Mr. HUGHES. Yes, sir.

Mr. ANDERSON. Now, I do not see how you can have any problem determining where seaward goes. It is not going to go in different directions. It will go straight out.

Mr. HUGHES. The spill can occur anywhere from 180 degrees, and might blow in from some distance.

Mr. ANDERSON. If you were going to have a spill outside of the area we extended outward, it obviously would not be covered.

All I am trying to do is protect seaward those sanctuaries that the State has already protected.

Mr. HUGHES. We understand that, and the point of the comment is if we use that definition there might be spills that might impact on the sanctuaries that are not covered.

Mr. ANDERSON. That is not very clear. I think it is very, very simple.

Then, the next point you say against it, it gives the State the authority to prohibit leasing seaward of a State marine sanctuary.

We believe existing departmental procedures, you say in your statement, can provide adequate protection for these areas without precluding oil and gas development on the OCS.

I wonder what existing departmental procedures you are referring to that can protect us, and you can use the oil spill at Santa Barbara as an example if you want to.

That is the one we are talking about, and that is just seaward of a sanctuary.

Mr. HUGHES. The basic procedure would be the Secretary's decision not to lease.

Mr. ANDERSON. But he did in this case.

Mr. HUGHES. Yes, sir; but he might not in another case.

Mr. ANDERSON. The Secretary's decision, itself, that is the existing departmental procedures that are adequate enough to give the State protection for its marine sanctuaries.

Mr. EDWARDS. There are several things that could be used as Mr. Hughes has mentioned.

We are involving the States in the public process and we could delete lease tracts from a particular sale.

Also, we provide special stipulation in the leases.

Mr. ANDERSON. How would you do that? How would you determine which ones you would delete, unless you have some byplay between you and the State of California?

Mr. EDWARDS. Well, that is correct, and that is the way we could do it. We actually have invited the State of California, Department of Natural Resources, to work with us in developing and drafting the environmental impact statement for the proposed California sale.

Mr. ANDERSON. We are talking about the leasing of plots of ground, not the impact. You can totally ignore the impact statement.

Mr. EDWARDS. No, sir; I do not think we can.

Mr. ANDERSON. You can have an impact statement against the whole business and your department, under present law, can go ahead and give oil leases out there.

Mr. EDWARDS. I do not believe that would be in conformance with the national environmental policy act if we ignored the environmental impact statement.

If we determined there were impacts that were not acceptable through the process of drafting the statement, and going through the public statement, I do not believe that the Secretary would be within the spirit of the NEPA to proceed with the sale in view of that.

Mr. ANDERSON. I get a feeling now this is what they want to do during this interim between now and 1976 when this act does go into effect, they know then they will have to comply, and I get the feeling they want to get in, get the leases out and sold as fast as they can before that time comes up.

I will yield back to the gentleman.

Mr. DOWNING. Mr. Pritchard?

Mr. PRITCHARD. Well, for one who is not from California and not as immediately involved as they are, I am more concerned with the overall problem.

We have one tough problem here. It is who is going to have the final say in the next 2 years over leasing. That is really it. Who is going to have final authority?

At this point it seems that the States have very little to say, actually. Now, I have heard complaints not only on final authority but also on what kind of treatment they are going to get as far as the cost the State incurs on these offshore facilities.

Is there some kind of middle ground that you people can work toward or arrive at that will give the States some feeling that they are going to have a say in this thing?

Mr. HUGHES. Mr. Pritchard, I think the best way to respond to that is to refer back to the President's meeting with the coastal State Governors a month ago, to indicate that both the Interior Department and the administration feel that the States must be more closely involved

in the leasing program and that we feel was the beginning of a new era of cooperation.

I would certainly have to agree with Mr. Anderson that in the past the Interior Department and the Federal Department has not consulted the States as much as they should have.

We in Interior feel it is incumbent upon our Department, if we are going to meet the challenge to find new energy supplies, as part of that problem we must find the right way to deal with the States in order to proceed in an environmentally safe and developmentally safe leasing program.

It is our intent, through the environmental impact statement and through other public forums and public meetings, to try and involve the States as much as we can in the process.

However, back to your first point as to who has the final decision, I think by the statutes now existing the Secretary of Interior has that final decision legally.

However, it is our intent to try and make sure that the decision he makes is based on the maximum amount of appropriate information we need prior to that decision.

I might ask Mr. Truesdell to refer back to the procedures that we adopted in the sale down in Florida, which is another point in Interior's treatment of how we deal with the States on the subject.

Mr. TRUESDELL. The area that I want to discuss is in the eastern Gulf of Mexico, off the coast of Florida, Alabama, and Mississippi.

Mr. Chairman, this is a frontier area, where we had no previous Federal leasing.

Last year, or about 18 months ago, we originally opened up an area of 24 million acres for industry, nominations or from public comment. Out of this 8 million acres were nominated for leasing. Out of this, the Interior Department, in conjunction with the States and with other Federal agencies, narrowed the list of tracts down to 800,000, one-tenth of that which was nominated.

Out of these, we sold about one-half million acres. However, in the environmental process, 48 tracts or about one-fourth were removed for environmental reasons or for use conflicts.

In addition, 118 of the tracts had five special environmental stipulations, most of which were requested by State agencies and conservation groups within the State of Florida.

There were 29 tracts that had six special stipulations.

Again, some of these were suggested by the States, and by other Federal agencies and the State of Florida representatives felt we had cooperated with them. They did not oppose the sale.

They have since worked with us in the administration of these special stipulations.

I can file this map for the record and it will show that was done.

Mr. PRITCHARD. I guess what you are saying is: judge us for what we are doing now, not what we have done in the past.

Mr. HUGHES. And what we intend to do.

Mr. PRITCHARD. Of course, dealing with Southern States is totally different from dealing with coastal States. The politics of it is totally different.

In one case, you have a warm, inviting group, and in the other, you have a hostile group.

Mr. TRUESDELL. I do not think we were warmly welcomed.

Florida did not welcome us with open arms, but in working with them, when it was all over, they felt they had a share in the decision-making concerning the tracts.

Mr. PRITCHARD. Well, I am somewhat concerned that because of the politics of it all leasing could be stopped for the next 2 years under this provision. I can see a coastal State government, whether it is New Jersey, New York, or any of the others under great pressure to prevent leasing. Politically there is not much mileage these days in approving any of these schemes. The public is very frightened, and I cannot blame them.

At the same time, I recognize that we are probably going to have to move ahead in this leasing program. How we can do it in the next 2 years until we have implemented these State plans is something we are looking for.

I am very sympathetic to what these California people are talking about.

Mr. TRUESDELL. The States now have full authority within their territorial waters, which is 3 miles.

They also, Mr. Pritchard, have complete zoning authority on shore.

They could effectively stop any type of development resulting from any OCS activity with their present authorities.

Mr. LAGOMARSINO. Would you yield?

Mr. PRITCHARD. I yield.

Mr. LAGOMARSINO. I would question that. I think that may be true to some extent, but, for example, north of Santa Barbara, not in the area that blew out and probably not in the geological unsafe area, but in a very deep water area, there is presently in existence a permit to proceed with drilling after a long delay back to 1969.

It has already been stated that if the State and the county do not allow the construction of onshore facilities for treatment of that oil, that it will all be done at sea, that the oil will be loaded into ships and will be shipped some place else, so it can be done without the cooperation of at least the local government in that area.

Mr. TRUESDELL. I did not mean the oil cannot be developed, but it cannot be brought ashore through pipeline or storage facilities.

Mr. LAGOMARSINO. But the question is, so that you know, because if the State is opposed to the drilling of that well, it does not make much difference.

Mr. DOWNING. Mr. Bauman?

Mr. BAUMAN. Thank you, Mr. Chairman.

Mr. Secretary, the reason this legislation is before us is because of the window in time that exists, that the gentleman from California has alluded to. As you just noted, the Secretary of Interior has the final say in all of these leasing decisions, even though you express a complete willingness to cooperate with the States.

In introduced the legislation because I questioned whether or not the Secretary is, in every sense, charged as he is with responsibility of the energy program, able to consistently consider what the States want in the way of coastal zone areas.

Now, I do not question that there is going to be leasing. The Federal jurisdiction, probably by decision of the Supreme Court, is going to be

affirmed over the east coast as well; but has not the leasing process already begun, yesterday?

Have you not issued departmental "calls for nomination," so the oil companies will start putting in their requests for, as you call it, the nominations?

Has not the procedure already begun?

Mr. HUGHES. That procedure which is the next step after our announcement of the tentative lease sale is part of the process we need to move ahead, should the decision finally be made to lease given areas, whether it be on the Atlantic or in Alaska.

The call for nominations does not indicate a final decision to lease, and is not a legally binding step on the Secretary or anyone else.

It is our desire to move ahead and gain more information with respect to the individual areas as to whether or not there is oil company interest, and whether or not there is public interest, either pro or con.

The call for nominations is strictly not a call for the oil companies alone.

Mr. BAUMAN. But it does begin the leasing process, so to speak?

Mr. HUGHES. Yes; but the decision is not made to lease.

We need a process because of the time involved in any leasing program.

Mr. BAUMAN. Yesterday we heard testimony that it is unlikely that any State could come up with a coastal zone management project, which would place the Secretary of Commerce as arbiter of the whole question, until 1976 or later.

When the Secretary of Interior testified a few weeks ago before the Interior Committee, of which I am a member, he told me it might be 7 or 8 years before actual oil production occurred following these leases, and yet, the very morning he was saying that before our committee, the chairman of the board of Exxon USA, Mr. Myron Wright in Baltimore was telling the press that within 2 years of the authority in his hands to proceed, production would occur off the Outer Continental Shelf.

Timewise, we overlay those statements of the Exxon executive and the procedure that Interior goes through now. Without this protection of the Coastal Zone Management Act, does not that mean decisions may be made and accomplished well before the States have any handle on the coastal impact which will ensue?

Mr. HUGHES. I think it is clear in the first part of your question that we intend to proceed with the leasing process leading to final decision for given lease sales, should all the appropriate steps be taken, and no bars be raised with respect to any given lease sales.

However, the process is a process by which we accumulate information with which we finally make the decision.

Now, obviously, I cannot speak for Mr. Wright. All we can do is say by our past experience, and given the capital investment and the time needed to accumulate the equipment the companies need, it seems unlikely to us that the companies would be able to develop any area within 2 years unless it is an area, like the Gulf of Mexico, where there has been previous development.

We use 4 to 10 years as a development timeframe, once a lease sale is held, and a company buys a lease, for them to go ahead and develop that lease.

Mr. BAUMAN. As I recall, the entire leasing schedule the Department finally proposed came to public light, not as a result of consultation with the States but as a result of a news report in a Washington paper in the form of a memorandum Under Secretary Whitaker had written to your staff members.

Now, that was the first indication any of us had of this leasing. Subsequent to this I received the impression from the news accounts of the Governors Conference, that some of them objected that the Governors were told what the Interior Department intended to do, more or less as a matter of information, and not consultation.

Certainly those of us in the Congress from coastal areas who heard this, not that you had any obligation to consult us, but we learned of the leasing through the media presentation of the facts. Is that really consultation before the fact or is that sort of consultation along the way?

Mr. HUGHES. No; I believe we have had consultation.

The schedule that you refer to being first made public by a reporter, I think does not belie the fact that we have scheduled for the last 10 years long term lease schedules that have been put out.

This, in fact, is the latest tentative lease schedule that the Department has arrived at, based on calls for nominations, or indications from the companies in particular; but the general public at large, as to where in the rest of the Outer Continental Shelf the companies would like to nominate tracts for future leasing and granted, as I said a few minutes earlier, the Department has not done in the past a good job of consulting those States.

I think we recognize that we have to do a much better job in consulting with the States in the future if, in fact, the program is going to proceed in an orderly manner.

It is one thing to say that we ought to suspend all OCS operations for 2 years. However, if we look at the larger energy picture, the Outer Continental Shelf provides the one immediate source of oil to make up the large deficit between what this country uses every day and what we now must import from the OPEC countries.

We could, in fact, have a prohibition on oil development on the Outer Continental Shelf; however, its impact on the public at large would be significant.

Mr. BAUMAN. Just one last question, Mr. Chairman, if I may.

It is quite obvious, as long as the Interior Department has this total power over leasing up to the point where the coastal zone management plans are approved, that there could be a definite conflict in the best interest of an individual State and the national needs. It is entirely possible that your Department would resolve that conflict in favor of the national needs to the detriment of the coastal State, would it not?

Mr. HUGHES. That might be true.

However, the opposite, giving each State an individual veto over OCS development on the Outer Continental Shelf, we feel would be inimical to the national interest in terms of the energy supplies this country needs.

Mr. BAUMAN. Thank you, Mr. Chairman.

Mr. DOWNING. Mr. Lagomarsino?

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

Mr. Secretary, I gather from what you have said here this morning and from your formal presentation that you do not object to the law that we are talking about here, the Coastal Zone Management Act, with regard to the procedures that will be in effect after a State has had its coastal zone plan approved by the Secretary of Commerce; is that correct?

Do you feel you can live with the act the way it is written, insofar as what will happen after each State has developed its coastal zone?

Mr. HUGHES. Yes, sir.

Mr. LAGOMARSINO. I think what the authors of these bills are concerned about is what happens in the interim period which perhaps is the most significant period and the most sensitive period, because after the plans are adopted then there will be a mechanism for resolving conflicts.

Whether we agree with that or not is something else, but there is a mechanism.

What I am wondering is would you object to legislation that would, in effect, provide the same kind of mechanism during this interim period, as would be the case after the plans are formulated?

Somebody other than the Secretary of the Interior would be making the final decision.

Mr. HUGHES. It would be hard to say, "Yes, I agree that the system after 1976 is one that we could live with and support."

I guess it would depend on the exact terms of your proposal, your interim proposal.

Mr. LAGOMARSINO. Let us say the interim proposal was worded the same way as you quote in your statement on page 3, that the Secretary of Commerce, if there is a conflict, would determine that the activities are consistent with the objectives of this title, or as is otherwise necessary in the interest of national security.

Mr. HUGHES. Subject to the exact language in the proposal you are referring to, I think we could live with that if, in fact, it would arrive at the same system that will come in 1976, after the Coastal Zone Management Act has been implemented.

Mr. LAGOMARSINO. I am assuming it would be written in such a way that it would be the same:

Mr. HUGHES. But in the interim period when the States have no agreed-upon coastal zone plan, it is a little hard for me to imagine what the third party would use to agree or disagree with Interior's leasing plans.

The States are not unanimous in their feelings about oil development.

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

Mr. DOWNING. Mr. McCloskey?

Mr. MCCLOSKEY. Thank you, Mr. Chairman.

In your proposed off-shore leasing program, do you make any requirement that the lessee develop within a certain time limit?

Mr. HUGHES. No, our stipulations, and I will refer to the Bureau of Land Management, require that within 5 years we must develop or prosecute a lease.

Mr. MCCLOSKEY. Now, as I undertsand the urgency of the energy crisis that is being discussed among the administration representatives, the need for oil is much sooner than 5 years.

Mr. HUGHES. That is correct.

Mr. McCLOSKEY. Do you have it within your power under the enabling legislation to insist on any provisions in the lease?

Mr. HUGHES. Any provisions that would make it sooner than 5 years, I defer to my legal counsel.

Counsel informs me that we do have that authority.

Mr. McCLOSKEY. Well then, if you are not worried under leases of less than 5 years, why do you object to this legislation which does not apply until 3 years from now?

Mr. HUGHES. I guess the answer to that is that we think that companies, who for instance, in the sale in Florida that paid $212 million for a given lease, because they think the potential is high, will not wait for 5 years to develop the lease.

Mr. McCLOSKEY. Why not require it from them?

I am reading from Secretary Morton's release today, or December 10, 1974:

"We count on oil producers to continue their efforts to discover additional domestic reserves for these fuels."

If it is so urgent and you go ahead with leasing on the Outer Continental Shelf today in the invitation to these leases, why not insist on immediate exploration?

Mr. HUGHES. I would like Mr. Gaskins to respond to that.

Mr. GASKINS. It is always a possibility under existing law for us to put in some such diligent requirement.

Mr. McCLOSKEY. Have you done so in your invitation for lease bids?

Mr. GASKINS. We could.

Mr. McCLOSKEY. Why not do so?

Mr. GASKINS. What we like to do is use the existing equipment to develop the most oil and gas in the shortest period of time. If you put a requirement in that says that everybody must drill at least one exploratory hole on a lease within a specified period of time, say 1 year or 6 months, to hold that lease, what you will find is that drilling equipment will be used not to find the most oil and gas but to meet the diligence requirements.

We are operating over the next 5 years or so in a situation in which we do not have all the drilling equipment necessary to fully develop all the leases we would like to sell.

We would like, in essence, the oil industry to use the existing equipment on the very best prospects available.

Mr. McCLOSKEY. This is my point. You would like the oil industry to do something and in your statement here by the Secretary, he says, "We could not impose upon oil producers to continue their efforts." It seems to me in resisting this legislation and yet giving the companies up to 5 years to even start any exploration, that your sense of urgency that causes you to oppose this legislation is not being met by your own procedures.

Mr. GASKINS. We think the economics of the situation will drive the companies to use their equipment in the most efficient way.

Mr. McCLOSKEY. Why not require it, if that is so?

Mr. GASKINS. Unfortunately, we do not have a crystal ball that at every instance in time allows us to know the best place to put the equipment.

To have a plan, in which we fully control the oil industry, tell them where to drill, et cetera, we would have to have the information at every point in time to tell them exactly where to drill.

The Federal Government does not have that detailed information and we, in this particular case, rely on the market to use equipment efficiently.

Mr. McCloskey. Well, what you are saying, then, is that you do have an energy policy, and that energy policy includes the line on the market with which these oil companies are going to drill; is that a fair statement?

Mr. Gaskins. I think that is a fair characterization.

Mr. McCloskey. Do you not now have under consideration the adoption of a comprehensive new energy policy with the consideration of all sorts of options that might speed up the exploration for all domestic sources of oil?

Mr. Hughes. I think the answer to your question is yes.

Mr. McCloskey. Is one of those options nothing other than reliance on the oil companies themselves the consideration of doing this by contract, where the Government would go out into the Outer Continental Shelf and do the drilling itself?

Mr. Hughes. That is one of the options the energy planners have looked at.

Mr. McCloskey. What about the change in the form of leases? Instead of relying on front-end money and royalty, what about requiring immediate exploration and a much higher royalty?

Mr. Hughes. Various options and bonuses have been considered; that is correct, sir.

Mr. McCloskey. Now, I wonder if you could furnish this committee today with a set of those options that you are now considering on your leasing program?

Mr. Hughes. I do not have those options personally, but we can talk to the Secretary.

Mr. McCloskey. Now, just a minute, Mr. Assistant Secretary, so that you understand my question.

These options have been considered. There are memorandums that set them out in detail, what the options are the Interior Department is considering with respect to leases, the changing of the leasing program and policies.

May we have a copy delivered to this committee, Mr. Chairman?

I ask unanimous consent that he be asked to provide us with these options.

Mr. Hughes. We will be glad to provide them to you.

Mr. Dowing. Without objection, that will be provided.

[The information follows:]

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., February 11, 1974.

Memorandum
To: Under Secretary.
From: Assistant to the Secretary.
Subject: Accelerated OCS leasing issue papers.

Enclosed are issue papers relating to accelerated OCS leasing which have been developed by the Assistant Secretary for Land and Water Resources. These issue papers address the following three questions:

1. What changes, if any, should be made in diligence requirements?

2. Should "checkerboard" leasing be adopted?

3. To lease 10 million acres, how many sales should be held per year, of what approximate size, and accompanied by what environmental impact statements?

The issue papers on Checkerboard Leasing and Frequency and Size of Lease are reasonably accurate and complete. However, the paper on Diligence Requirements reintroduces the topic of amount of leasing. Since the decision regarding 10 million acres has been made, it only confuses discussion to review the question again. In an attempt to clarify the Diligence Requirements issue, I have included a short discussion of it following my recommendation.

The positions taken by the Assistant Secretary for Land and Water Resources, the Assistant Secretary for Energy and Minerals and the Solicitor are also enclosed. My own recommendations are as follows:

1. DILIGENCE REQUIREMENTS

I believe that diligent drilling requirements would sacrifice speed and efficiency in the development of OCS oil and gas by diverting scarce drilling resources from the most promising tracts in order to meet drilling requirements on all tracts. This disadvantage is not offset by any substantial advantages. I therefore recommend that diligent drilling requirements not be adopted.

In justifying my recommendation regarding diligent drilling requirements, I would like to clarify the issues involved as I see them. First, diligent drilling requirements should be assessed in the context of the President's announced policy to lease 10 million acres annually by 1975. There is no contradiction between this policy and an objective to maximize short-term production, as the AS/LWR issue paper implies. In fact, by making more tracts available for development, we are likely to provide access to more tracts which are highly promising as sources of new production in the short run.

With respect to the announced leasing policy, diligent drilling requirements will interfere with an efficient and speedy development of OCS resources. The significant expansion of leasing under the announced policy will put a great strain on drilling resources. This makes it essential that available resources be concentrated on the most promising tracts.

Diligent drilling requirements, however, would force leaseholders to spread drilling resources across all tracts held, in order to prevent automatic termination of leases. The resulting diversion of resources from the most promising tracts would reduce the speed and efficiency with which OCS resources are developed.

While diligent drilling requirements would interfere with OCS development, they offer no substantial offsetting advantages. It is often contended that diligent drilling requirements would reduce speculative holding of leases. First, it should be recognized that speculative holding of leases is unlikely to be occurring at this time. The reason is that present oil prices are very high due to unusual circumstances, and they are not likely to be higher in the future. Thus, there probably is little incentive for withholding of production that could be developed with presently available drilling resources.

Moreover, when speculative withholding does occur in response to expected higher future prices, it serves a useful economic function. Speculation conserves resources when prices are low, so that more resources are available when prices are high. Thus, even if speculation were occurring at present, the prevention of such speculation would not be desirable because it would interfere with the conservation function.

2. CHECKERBOARD LEASING

I recommend against checkerboard leasing because it is likely that the resulting delay in production would outweigh any gain in information from such a leasing strategy.

3. FREQUENCY AND SIZE OF LEASE

I recommend that the 10 million acres to be leased in CY 1975 be sold in four sales of approximately equal size. More frequent sales would increase administrative costs without substantially increasing bidding competition. The existence of an active resale market for OCS leases indicates that the frequency and size of individual sales is not a major factor in bidding decisions.

ROYSTON C. HUGHES.

Enclosures.

43-881—75——19

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C.

Memorandum
To: Dr. William A. Vogely.
From: Gaskins/Teisberg.
Subject: Response to "work bid bonus system" proposal.

The "work bid bonus system" proposal calls for a new bidding system for the sale of Federal offshore oil and gas leases. The proposed system would have winning bidders on each tract place their bids in an escrow account. The money in such accounts would then be available to the lease purchasers to cover "exploration and production expenses" on their leases. Any excess of exploration and production costs over the amounts in escrow would be paid by the lease owners, while any unused funds in the account would revert to the government.

The work bid proposal is intended to reduce the capital requirements of buying and developing offshore leases. This, in turn, is supposed to result in increased offshore development, since it is argued that the oil and gas industry is capital short at the present time. Moreover, it is argued that lower capital requirements will make it easier for smaller companies to become lease owners.

While the premise that oil companies are capital short is subject to question, there are much more serious flaws in the work bid proposal. Specifically, the work bid bonus system would have the following effects:

The initial bonuses paid under the system would increase, creating even greater capital requirements.

Exploration and production activities would not be carried out efficiently under the work bid system.

The risk associated with purchase and development of leases would increase, discouraging entry into offshore production, particularly for smaller companies.

Increased bids.—Neglecting risk, the competitive bonus price for a lease is the expected discounted net value of production from the lease. The net value of production is, of course, the difference between total revenues (net of royalties) and costs of exploration and production.

Under the work bid bonus system, exploration and production costs are borne by the escrow account. Thus, under this system the net value of production from a lease is simply total revenues (net royalties). This amount is greater than net value under the present system, by the amount of discounted exploration and production costs which are not borne by the company. Thus, the competitive bonus price under the work bid system is also greater by this amount. Essentially what happens is that companies increase their bids by the amount of their expected exploration and production costs, knowing that this amount will be returned to them for exploration and production purposes. The work bid system thus increases the initial bonus required to purchase a lease.

Inefficient development.—Under the work bid bonus system, the competitive bonus prices which go into escrow accounts are equal to bonus prices under the present system plus the expected costs of exploration and production. This means that an escrow account will almost always contain more than enough money to cover any exploration and production costs.

Once leases have been purchased, therefore, exploration and production will typically cost the companies nothing; all expenditures will simply come out of the escrow account. In this situation, companies can be expected to explore each lease more intensely than is justified by the possible amount of oil to be found, and they can be expected to produce any oil found even though there may not be enough to justify the actual costs of production. Thus, the work bid system would create incentives for excessive exploration and production of offshore leases.

Increased risk.—The risk associated with purchasing and developing a lease can be measured as the variation in possible profits realized from the lease. Assume for simplicity that there are "good" leases and "bad" leases. Good leases have substantial production costs and yield substantial revenues. Bad leases are explored and then abandoned because they contain no oil.

Under the work bid system, companies bid for leases before they know whether the lease will be a good lease or a bad lease. They will therefore tend to increase their bids under this system by the expected (i.e. average) amount of production costs. However, average production costs are necessarily less than actual costs for a good tract, and greater than actual costs for a bad tract. This means that on good tracts companies will have "prepaid" less for production than actual costs, while on bad tracts they will have "prepaid" more than actual costs.

Thus, good tracts will produce greater profits than under the present system, while bad tracts will produce greater losses. Risk therefore increased under the work bid system because the variation in possible profits increases.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 12, 1974.

Memorandum
To: Under Secretary.
From: Acting Director, Office of Mineral Policy Development.
Subject: Profit sharing experiments in future OCS sales.

In a paper attached to this memorandum, a number of OCS bidding systems are discussed as alternatives to royalty bidding for the purpose of lowering the front-end costs of OCS development. The conclusion of the paper is that a profit sharing scheme is the most appropriate of the available alternatives, at least for further experimentation under existing law.

Completion for OCS leases would still be on the basis of bonus bids, but profit sharing payments—at a fixed rate—would replace royalty payments. The fixed share of net profits to be turned over to the Federal Government would be set high enough that the expected profit sharing liability would exceed the expected liability for royalty payments under current ground rules. This increased commitment for future payments contingent upon profitable production would have the effect of decreasing the expected net value of OCS tracts to firms, thereby decreasing their bonus bids.

The potential advantages of profit sharing over royalty bidding are downstream, after the lease has been acquired. Taken off the top, the decline in royalty payments is less than proportional to the decline in profits as the productivity of a well decreases. This results in an incentive to shut-in wells and abandon leases prematurely.

Profit sharing payments, being contingent upon *profitable* production, would decline in proportion to the decline in profits as the productivity of a well decreases. This would undercut incentives to abandon leases and shut-in wells prematurely.

Administrative Feasibility.—Going ahead with a profit sharing experiment in September, or at all, depends upon its administrative feasibility. The key to making the system work lies in determining a definition of net profits that preserves the integrity of the profit sharing concept and is workable.

The best available definition is taxable income from property—in this case, interest in an OCS lease. The definition includes gross income from the property less the following deductions:

operating and selling expenses;

depreciation, including intangible drilling and development costs that have been capitalized, but excluding the bonus;

intangible drilling and development costs written off in the year incurred rather than capitalized;

carry-over of losses incurred on the lease in prior years;

administrative and financial overhead;

non-Federal taxes.

This data is provided routinely for the purpose of determining depletion allowance and aggregate tax liability. Moreover, IRS has assured us that the same data will be received, on a per property basis, even if percentage depletion is eliminated.

The Department could petition IRS for the tax data as it is filed during the calendar year and calculate the profit sharing liability of each lessee. Since both the Department and the IRS would be interested in the reliability of the same data, periodic IRS audits of tax returns could be relied upon for financial monitoring of the profit sharing system.

Problems with Experimentation.—With an experimental design such as that established for the September sale, it is possible to acquire adjacent tracts under separate bidding systems. If it is possible to tap the same reservoir from either tract, the obvious incentive is to work on the lease with the lowest royalty commitment. For this reason, mandatory unitization will be part of the lease stipulations.

Mandatory unitization creates problems regarding the inroduction of a profit sharing experiment in September. As far as IRS is concerned, any unit formed on the OCS becomes a single property held by a partnership. No tax information is required for each lease in the unit, only for the unit itself.

Data on the taxable income of the unit could be acquired from IRS and a unit profit sharing liability calculated and prorated among the partners in accordance with the unitization equity agreement. However, with tracts on a structure being acquired under different ground rules, not all partners in the unit would be subject to the profit sharing requirement—or to the same determination of taxable income since some could claim royalties as deductions and others could not.

The Department would have to require cost data from each partner in a unit who is liable for profit sharing payments. This cost data, in turn, would have to be verified through the Department's own auditing efforts.

The administrative effort involved would probably be excessive in relation to the potential benefits of running a profit sharing experiment concurrently with royalty bidding.

Possibilities for the Future.—The mixing of bidding systems within any given unit creates problems for both the Department and IRS. If potential units, in this case inferred structures, are all offered under the same bidding system, the problems are alleviated. Each participant in the unit faces the same tax rate and profit sharing rate, so revenue and cost data on the unit alone is adequate for calculating each partner's liability to the government—equity shares could be used for prorating.

Moreover, mandatory unitization would not be a necessity if entire structures were offered under the profit sharing system. The profit sharing rates would be the same on any adjacent tracts, so there would never be an incentive to tap a single reservoir from one tract rather than another.

The Department could offer entire structures for sale under the profit sharing system in January. No mandatory unitization would be required nor would GS have to set up a substantial accounting and auditing system independent of the IRS.

Given possible errors in the GS evaluation of any single structure, several structures would have to be offered under the profit sharing system to get meaningful estimates of its impact on bidding. Obviously, then, the experiment would require the offering of a substantial amount of property under untested ground rules.

Recommendation.—Additional experimentation in the September sale is probably inappropriate and there really is no need to make a decision about the January sale at this time.

My staff will continue discussions with IRS to clear up some outstanding issues on their price policy for crude oil that is transported directly to refineries rather than sold in the market. If this issue can be resolved satisfactorily, profit sharing could be considered once again, this time as part of the preparations for the January sale.

DARIUS W. GASKINS, Jr.

Attachment.

ALTERNATIVE BIDDING SYSTEMS ON THE OCS

Currently, leases are awarded on the basis of competitive bonus bidding, payments to the government being predominantly in the form of a lump sum payment made prior to exploration and devleopment. This approach has been attacked on a number of grounds.

Bonus payments can be the single largest component of total investment in developing an OCS lease, yet is is paid before the lease has begun generating any income. It has been argued that only a few corporations can afford this approach to investment over a wide array of OCS tracts and that the industry as a whole does not have the capital needed to finance major increases in OCS development through the bonus system.

Moreover, bonus payments are paid when uncertainly about the potential of a tract is the greatest, prior to exploratory drilling by the leaseholder. The price of entry into OCS devleopment, the initial bonus, can be the single largest component of overall investment.

To hedge againset the possibiilty of substantial losses (to date, only 37 percent of the OCS tracts leased have been productive), firms may incorporate risk premiums into their bonus bids, resulting in lower bids on all tracts and no bids at all on some tracts. Firms can also hedge against the risks by spreading their

investment across a wide range of properties, a tactic of limited availability for those companies short of capital.

To explore the validity of these arguments, a royalty bidding experiment was proposed for the September lease sale. Under royalty bidding, the bulk of Federal payments would be captured through royalty payments made if and when production takes place.

The advantage of royalty bidding for the leaseholder is that the primary payment to the government for the lease can be paid out of revenues generated by production on that lease, and foregone entirely if the lease proves not to be productive.

However, this advantage also aggravates a fundamental problem introduced by royalty payments, distortion of production decisions.

Royalty payments, taken off the top, effectively limit leaseholders to receipt of only a fraction of the market price for oil and gas. The result is that production may be foregone even though the market price for oil and gas would justify production. With royalty bidding, the great majority of production or production revenues could belong to the government. In this case, the premature shutting-in of wells could take place with substantial reserves of oil and gas left in the ground.

Royalty bidding aggravates another manifestation of distorted production decisions—lease abandonment. Bidding would no longer be in the form of a component of overall investment in the lease—the bonus—but rather in terms of the distribution of future revenues—between the government and the leaseholder.

Under competitive bonus bidding, firms increase their overall investment to the point where expected revenues will yield a normal rate of return on that investment. Should exploration reveal that the original estimates of production revenues were too high, there are still considerable incentives to undertake production.

Investment in production itself is only a fraction of the overall investment on which the normal rate of return was originally calculated. Even with a downward revision in estimated production revenues, most of which would belong to the producer, there is still a good chance that return on investment in production alone will be in excess of that obtainable by putting the money elsewhere.

Under competitive royalty bidding, firms retain just enough out of expected production revenues to yield a normal rate of return on investment in production. Should exploration reveal that the original estimates of production revenues were too high, the margin of error available under bonus bidding is now gone because the bulk of overall investment remains optional while a substantial share of estimated revenues from this investment will have to be turned over to the government. Downward revision in estimated revenues may not yield a normal rate of return on the optional investment in production.

The problem is not quite so straightforward because of the discounting firms do for uncertainty at bidding time. However, it can be safely said that royalty bidding substantially increases the probability that leases will be abandoned after exploration or held for a nominal rental fee until price increases justify production.

Given these problems with royalty bidding, at least in theory, it is appropriate that the Department consider alternative bidding systems which would also lower the initial capital outlays necessary for participating in the OCS. Several are proposed below as a possibility for further experiments in the September sale.

Deferred bonuses

Under a deferred bonus system, firms still compete on the basis of bonus payments but with the understanding that the bonus will be paid in installments rather than one lump sum.

It is the opinion of the Solicitor's Office that deferred bonuses are possible under current law, but only in the following manner—firms compete on the basis of bonus bids with the understanding that rental payments during the primary (first five) years of the lease will be equal to the bonus payment. Under this system, the equivalent to current bonus payments would be six times what the firm bids—the bonus payment plus the first five rental payments.

Unless interest is charged on the rental payments, the cash value of bonus bids plus rental payments would increase because the *de facto* bonus would be paid in future as well as current dollars. Moreover, payment to the government would still take place during the non-productive years of the lease and irregardless of

whether or not production ever takes place. There really is no shifting of the risk in OCS development from the leaseholder to the government.

Relief is provided to the leaseholder if the critical problem is one of pulling together enough money, from retained earnings or the money market, to make lump sum bonus payments during the first year of lease. The relief is in the form of spreading out the cash flow involved in paying for the right to explore and develop OCS leases.

Some actual sharing of risks could be accomplished through a bonus forgiveness provision. Firms would compete on the basis of bonus bids but pay only a fraction of the bonus at the front-end, the remaining payments being contingent upon actual production. It is the opinion of the Solicitor that forgiveness provisions may be allowable under current law.

In addition to sharing risks, however, bonus forgiveness increases the possibility—relative to current ground rules—that leases will be prematurely abandoned. Firms would still be bidding on the basis of a component of overall investment—their bonus commitment. Under competitive bidding, firms can be expected to increase their overall investment to the point where expected revenues will yield a normal rate of return on that investment. Investment contingent upon production—in this case both development costs and the share of the bonus subject to forgiveness—would be the largest component of the overall investment on which the normal rate of return was originally calculated. If exploration results in more than a marginal downward revision in estimated production revenues, a normal rate of return on the remaining bonus payment plus development costs may not be attainable. The rational thing to do then would be to abandon the lease, obtain the bonus forgiveness, write off the initial bonus payment and exploration costs as a loss, and look for other investments—even though the market price for oil and gas may be well in excess of per unit production costs.

Net profit bidding

With this system, a minimum bonus would be set to eliminate irresponsible bidders and firms would compete on the basis of their commitments to the government out of future profits. As with royalty bidding, the Federal Government would receive payments for the lease primarily through payments contingent upon production, thereby shifting some of the risk of OCS development to the government.

The Solicitor's Office has indicated that a bidding system of this kind is possible under current law if:

Regulations are changed to define royalties as a percentage of something equivalent to net profits;

Firms bid on the basis of the royalty rate (percentage of net profits) they are willing to pay.

Net profit bidding, so defined, introduces a critical problem into the competition for OCS leases. With bonus bidding, leases are clearly granted to the firms that place the highest net value on the lease at the present time. It is not at all clear that net profit bidding accomplishes the same thing.

The net lease value implicit in a net profit bid depends upon the expected production and costs of development that went into the bid calculations. By going with the high bidder, we may or may not be granting the lease to the firm that places the highest net value on the tract. It is not inconceivable that we could simply be granting leases to the most inefficient producers, firms that have committed a high percentage of very small expected net profits.

Profit sharing

In a sense, this is a compromise proposal. Firms would still compete on the basis of bonus bids, but a fixed percentage of net profits would replace royalty payments.

As long as the expected net profit payments exceed the expected royalty payments under current ground rules, the result would be lower bonus bids. The increased commitment of future payments contingent upon production reduces the expected net value and hence the maximum profitable bonus bid for any given tract.

With competition on the basis of bonus bids, the lease would be granted to the firm that places the highest net value on the lease at the present time. Moreover, the winning bidder would be the most efficient producer—his expected net value being the highest after costs have been covered and profits shared.

Problems in defining net profits

In the case of royalty bidding, transferring some of the risks of OCS development to the government aggravates production incentive problems. Ideally, profit sharing transfers risks without similar negative effects on production decisions.

This is true only under the assumption that net profit payments are a share of "net profits" involving a return on investment in excess of a normal rate of return.

Limiting net profit payments to a share of profits in excess of what could be earned elsewhere would mean that capital would never flow out of OCS development because of net profit payments, eliminating the distortive effect on production decisions that is associated with royalty payments. Oil and gas in the ground would be shared with the government only when market prices justify production and in a manner that provides at least a normal rate of return to the leaseholder. Ability to gain a normal rate of return would then depend upon revenue and cost considerations common to all investments.

Current tax law does not permit this approach to profit sharing. Limiting payments to "excess" net profits as defined above would require definitions of exploration and capital costs entirely distinct from that permitted for tax purposes.

The most feasible form of net profit payments is a percentage of taxable income per property (OCS tract)—gross income from property less such allowable deductions as amortized exploration costs, amortized capital costs of production, direct operating costs and administrative overhead. This is a figure calculated routinely for the purpose of determining depletion allowances and aggregate tax liability.

In effect, profit sharing—at either a fixed or competitively determined rate—would become a tax increase unique to OCS development. A higher tax rate would be paid on *each* dollar of net income from the OCS than from other investments.

Profit sharing, so defined, would retain some of the characteristics of royalties in the early years of the lease while exploration and capital costs are still being written off. Current tax law permits these costs to be written off at cash value rather than present value, with the result that leaseholders can still be liable for taxes when revenues simply cover the present value of overall production costs. This problem is alleviated once the predominant capital costs have been amortized.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C.

Memorandum
To: Secretary, Under Secretary.
Through: Jared G. Carter.
From: Darius W. Gaskins, Jr.
Subject: OCS Summary of consultations with industry and environmental organizations.

We recently met with representatives of the following companies: Amoco, Citgo, Columbia Gas, Continental Oil, Dow Chemical, Exxon, General Crude Oil, Gulf, Husky Oil, Mobil, Murphy Oil, Phillips, Shell, Sun Oil,, Texaco, and environmental organizations: Center for Law and Social Policy, Environmental Policy Center, The Institute of Ecology, National Audubon, NRDA, National Wildlife Federation, Sierra Club, Sport Fishing Institute; to obtain their views on the alternative exploration programs we had been considering and on some other matters. Briefly, the programs are:

1. Sale in 1975 in several frontier areas covering a limited number of leases and requiring unitized exploration.
2. Company exploratory drilling on structures through one-year leases in limited number of frontier areas, followed by a preference lease if a discovery is made. All data to be made public.
3. Federal exploratory leasing program, all data being made public immediately.
4. Federal stratigraphic drilling program, all data being made public immediately.

This is a summary of their answers to the main questions put to them.

Question 1: Would any of the proposed exploration programs get petroleum faster than the planned ten million acre two-tier leasing program?

There was not a single company which thought that any of the proposed programs would add much to the current ten million acre program. A typical comment was: "We believe pre-lease drilling is wholly unnecessary, would delay the programs, and further would not be very effective because the best structures are usually large and complex, and they require a considerable exploration program involving many wells to define their potential." We were told repeatedly that a few holes even when drilled on structure would not condemn an area if they turn out to be dry and not significantly increase the speed of initial exploration if shows of hydrocarbon appear. Specific examples noted were:

About 200 holes were drilled in the North Sea before the first major oil discovery was made.

About 65 holes have been drilled off Nova Scotia without finding commercial quantities of hydrocarbons.

With the exception of Prudhoe Bay, many unsuccessful holes were drilled on the Alaskan North Slope.

This is not to say that some companies would not like more information on frontier OCS basins. One major, e.g., said that 30 holes if drilled on structure would really give us a lot of information. The Oregon/Washington case was cited as an example where a few holes told a lot about that area. And if one of the proposed exploration programs had to be selected, this company would prefer alternative 1. But they, as well as all the other companies, would rather proceed under our planned accelerated leasing program and drill the holes in the course of exploring their tracts acquired at regular lease sales.

One other major company stated a preference if one of the programs had to be adopted. Their view was that if data must be made public, the government may as well drill the wells, and so they opted for alternative 3. All the other companies, majors and independents, did not favor any of the proposed programs.

One independent company was fearful that such exploration programs could destroy the independents' offshore business since the government may as a result be selling known oil deposits. This would favor the integrated companies and bring in large end users who would simply outbid the independents. The company argued that the independents make their money by finding and selling crude oil.

The representatives of the environmental organizations did not have very firm opinions on the programs. To the extent that preferences were stated, they favor

an exploratory drilling program financed and operated by the government over any company-financed program;

delaying the ten million acre leasing program until the results of the government exploration program are known;

baseline studies before any lease sales take place, or at least before production begins, followed by a comprehensive monitoring program.

Question 2: Would a stratigraphic drilling program in frontier areas be useful in guiding lease sales toward the most promising structures? In particular, are you going to participate in the stratigraphic program of the "Sun group?"

There was no agreement on the merits of stratigraphic drilling. Most of the majors indicated that stratigraphic data would not add much to geophysical information. "Stratigraphic data is of minimal value if one has good geophysical data. The latter will indicate where the structures are and that's where we will drill." It was apparent that they would prefer less commonly available information before lease sales rather than more. As one of them put it, publicly available data just drives up bid prices.

Three of the independent companies argued that stratigraphic data for frontier areas would be quite useful since we lack definite knowledge about sedimentary structures. In their view, stratigraphic information can be used to guide lease sales toward the most promising tested structures. One large independent company would join the Sun group although they think it is a waste of time and money, because "the positive indications don't prove anything and the negative indications don't prove anything and the negative indications don't downgrade expectations." One of the majors stated that they would join the Sun group merely to protect themselves, while another definitely would not. The other companies did not commit themselves.

Question 3: Are there significant advantages, particularly with respect to rig-years saved, in unitizing the exploration efforts in frontier areas?

Most companies were either mildly for or mildly against unitization. Some believed that unitization would result in considerable savings in the number of exploratory wells drilled and, given the shortages of rigs, drilling pipes, casings; etc., significantly increase the rate of development in frontier areas. All com-

panies, however, would prefer voluntary to imposed unitization, saying that far more voluntary units would exist if the government had not practiced checkerboard leasing in the past. Unitization is said to entail problems with respect to allocating exploration costs fairly among the participants, and agreeing on the drilling plan and the drilling operator.

Question 4: What are your views about the Department's planned accelerated leasing program?

The companies, large and small, universally approved of accelerated leasing. Some stated that the oil industry has a large spare capacity to explore and develop much more acreage than in the past. Some believed that the industry can respond to sales of 10–15 million acres per year, while others suggested smaller numbers. All companies emphasized the importance of announcing sales frequently and regularly as far into the future as possible; this would make their planning efforts and those of their contractors far easier.

Almost all companies—majors and independents—took the opportunity to make the following points:

They like the present bidding system and do not want any significant changes. Except for two independents, no company likes royalty bidding. The two companies favor some form of royalty bidding to ease the front money problem. Many of the companies prefer to see a general reduction in the level of bonuses paid, but "although a bonus bidding system has a front money problem, the other alternatives have worse disadvantages."

Two of the independent companies stated that a royalty bidding system would encourage speculative land acquisitions, and bring in such end users as utilities and airlines who would simply outbid all but the very largest of the independents. They favor the current bidding system and a large-scale leasing program because "this would satiate the majors and leave a lot of good acreage for the smaller companies."

Four companies, while acknowledging that such a system would probably not be feasible in the U.S., stressed the desirability of the British system in which tracts are allocated on the basis of work commitments and fixed profit sharing.

They would like us to establish clear guidelines about our bid rejection system so that all participants know which criteria are being used. "Why doesn't the government state the minimum bid it will accept for each tract in advance of a lease sale?" Some companies are quite upset about any bid rejections. "We can't understand why you reject bids. After all, we are bidding in an auction."

With respect to our proposed ban on joint bidding by the largest companies, some of the majors (1) wanted to know how we arrived at the cutoff point of 5 million barrels, and (2) did not think it was desirable to prohibit joint bidding by the majors.

One major company suggested that instead of a ban against joint bidding, the government might impose an upper bound on the number of tracts a company can acquire in any one sale.

All of the independent companies favored joint bidding "but if joint bidding has to be limited, then the largest companies should be prohibited from bidding jointly."

Bright spot analysis was said to be an important new tool in geophysical exploration, primarily in locating and identifying gas deposits. "Bright spot techniques may increase confidence to as much as 75 percent on existence of hydrocarbons, but we still will not know volumes."

Although we talked to only a relatively small number of companies, we believe that we did have a representative sample and that the answers would not change much if more companies were canvassed. In appraising the responses of the companies to our questions, we must remember that they basically are satisfied with the terms and conditions of offshore leases, and will therefore reject any modifications which are going to change the familiar pattern of doing business unless the modifications are clearly in the best interests of the industry. Despite this recognized bias, it is doubtful whether any of the exploration programs which had been proposed would add much to our accelerated leasing program. Notwithstanding the somewhat negative attitude of the majors toward the Sun Oil stratigraphic drilling program, there is no good reason why we should not approve this project. We are presently examining all aspects of unitization and will have a staff paper on this topic in the near future.

DARIUS W. GASKINS, Jr.

Mr. McCloskey. As you know, in these hearings on this legislation, we are trying to determine the speed with which the leasing program is going forward, and perhaps to stop the speed with which that program goes forward, unless we are satisfied that the leasing program is within the national interest and the national energy policy which Congress will one day adopt.

Do you have any idea when we can expect a comprehensive energy proposal from this administration?

Mr. Hughes. I would say soon, sir.

Mr. McCloskey. Will it be soon enough so we can take out to our State coastal zone commissions some idea of what the National Government considers the national interest, so they can put that into the equations as they prepare their coastal zones?

Mr. Hughes. I feel fairly confident you can take that soon.

Mr. McCloskey. Thirty or sixty days?

Mr. Hughes. I would not presume to preempt the President's timetable, sir.

The President will make the final decision as to what the energy policy is.

Mr. McCloskey. I wish, as one member of this committee, you would convey to the Secretary our feelings that there should be a much greater sense of urgency on the administration with regard to the energy crisis and what the overall energy policy will be.

We should not be considering this legislation until we have the whole picture before us, but your testimony indicating you have no sense of urgency other than 5 years does not hit any objection to this proposal, which is merely that we delay it.

Mr. Hughes. Sir, your last point, we do have a sense of urgency, and that is the reason we are pursuing the program as vigorously as we are.

We feel, from the economic point of view, that the diligence requirement of 5 years is a good balance point.

If you make it any sooner, you might be putting economic constraints on the economic process under which we operate, which may lessen rather than hasten the chances of getting oil.

Mr. McCloskey. But if we are talking about conservation of energy, such as rationing or gas tax, it seems to me immediate exploration might be an appropriate thing for the American people to accept.

I challenge the whole concept of the market, when you are talking about intruding in the marketplace and putting a burden on the American people.

Mr. Anderson. Would the gentleman yield?

Mr. McCloskey. Yes.

Mr. Anderson. Just for clarification in your answer to Mr. McCloskey, you said you were looking at your options on whether you should fully explore the field or whether you should have the industry explore it, and use the bonus or royalty basis.

In looking at that option, is there any instance where the Government has explored the field and received a high royalty bid, rather than the State's low bonus royalty bid?

Mr. Hughes. We have had one royalty experimental sale, but when you preface by saying, have we explored the field——

Mr. ANDERSON. Obviously, they are not goinng to go in and buy something they know nothing about.

Had this been done in California ahead of time, you know, relatively what they are going to get, we would get a high royalty rather than a low royalty.

Mr. HUGHES. Our information is based primarily on information both from Government and company sources.

Mr. ANDERSON. What is the highest royalty you have given a lease on?

Mr. GASKINS. We conducted a royalty bidding experiment in October and the highest royalty accepted on a tract was 82 percent.

Mr. ANDERSON. Where was this?

Mr. GASKINS. In the Gulf of Mexico.

Mr. ANDERSON. This was in a fully developed area or a reasonably developed area?

Mr. GASKINS. That particular royalty was bid on a structure which had not been bid on at all.

The Gulf of Mexico is generally more developed than other areas.

We did not know there was oil there. There is a good chance there is no oil. Historically, in the region, only 25 percent of the tracts leased are developed.

Mr. ANDERSON. To answer Mr. McCloskey's questions, you are doing no exploration on your own and are relying solely on the industry's exploration to determine the bonus bid.

Mr. GASKINS. Let us define "exploration."

In terms of accepting or rejecting bids, or even making bids, both the industry and U.S. Government depend in general on what we call seismic information.

This information we, the Government, get on our own. Industry also gets it on their own.

There is another kind of information, geological information, having to do with what is in the ground when you drill a hole.

We have not until this time drilled any holes. Industry either drills holes on tracts they lease or, in some cases, exploratory holes, called stratographic holes are drilled in unleased areas.

We participate in those, Mr. Anderson, and have the same information they have.

Whenever a hole is drilled, the Federal Government has access to the logs which tell you what is found in that hole, so we have all the information industry has as to the geological data.

In addition, we do do seismic exploration.

Mr. ANDERSON. Thank you.

Mr. DOWNING. Mr. Young?

Mr. YOUNG. Thank you, Mr. Chairman.

I would like to ask, Mr. Secretary, what is the situation of sales off the coast of South Carolina?

Do you plan to lease any land off the coast of Carolina?

Mr. HUGHES. I would defer to the Bureau of Land Management.

There is a proposed tentative leasing schedule indicating that we would plan to lease. We have made no decisions as of now.

Mr. EDWARDS. In the proposed leasing schedule that was referred to earlier, which is a leasing schedule from 1974 through 1978, we

do have an area in the South Atlantic referred to as the Blake Plateau, which would be tentatively scheduled for sale in 1978, and May 1978 is the target we are looking for.

Mr. DOWNING. Will the gentleman yield?

Mr. YOUNG. I will be delighted to yield.

Mr. DOWNING. Would you mind telling me what plans you have for off the coast of Virginia?

Mr. EDWARDS. We can provide this schedule for the record if you wish, sir.

Mr. DOWNING. You do not have it there?

Mr. EDWARDS. Yes, we do have it here.

The first Mid-Atlantic sale which would be off the Virginia coast would be proposed for December of 1975.

Going on down in the Atlantic area, there would be a possibility of a second mid-Atlantic sale in 1977.

I think there were two off of South Carolina. I seem to have missed one here.

On the South Atlantic, the first one would be scheduled for July of 1976, and the second would be scheduled for 1978, as I mentioned earlier.

This schedule lists all of the areas and the tentative target dates, and we will be happy to provide this for the record if you wish.

[See insert on page 263.]

Mr. YOUNG. I would like also, Mr. Chairman, to ask this:

Do you have any knowledge about whether or not there are deposits of oil in this area?

Have you conducted any studies, and do you have this information now?

Mr. EDWARDS. Basically, that would be a question the Geological Survey can answer.

We do have some answers, but maybe Mr. Macdonald can answer that.

Mr. MACDONALD. I am not a geologist and I do not have that kind of firsthand information, and I do not think anyone does, really.

The geologists in our Geological Division have done studies in the Atlantic. They make their studies based on volumes of sediment.

Mr. YOUNG. Based on what?

Mr. MACDONALD. On volumes of sediment, just like volumes of sandstone that they know are in certain areas by seismic exploration.

There has been a good deal of seismic work in the Atlantic, and we have participated in this and we have this kind of information.

You do not really know until you drill a well, and you do not drill the well until it is leased, as a rule.

All I can say is that we have basic indications of structures that could contain oil, and I want to be very honest in saying that this is a chance and it is not at all certain until you drill.

Mr. YOUNG. I would like to ask the Secretary, do you think probably that we are leasing too many areas at one time, and if leases could be held to a later date that there might be additional moneys come in from later leases than if a greater number of leases were made now?

Mr. HUGHES. We do not feel our leasing rate is too fast.

As to your point of whether or not we get more money later rather than getting it now, we are watching the bonus bids that do come in

on the tracts, to see when the bonus bids begin to fall, which would be an indication that industry has too much offered.

We are conscious of the return to the treasury for the public resource, and so we do not feel we are leasing too fast.

We think the energy needs this country has, between now and 1985 and 1990, dictate a rapid but prudent development of the Outer Continental Shelf.

Mr. YOUNG. Do you feel that the Department of Interior will have regulations enough to prevent oil spills?

Mr. HUGHES. Sir, I could not tell you that our regulations will prevent oil spills.

We think they will do a great deal to prevent them, but nothing can absolutely prohibit oil spills.

We feel our regulations and stipulations on the leases will make it very difficult for the lessee to perform his operation without having all of the adequate equipment and safeguards built into both his rigs and containment equipment he must have access to; but we cannot flatly prevent the spills.

Mr. YOUNG. Mr. Chairman, I have no further questions.

Mr. DOWNING. Thank you, Mr. Young.

Thank you, Mr. Secretary.

Mr. ANDERSON. Mr. Chairman, it is kind of important what we are doing, and I think we ought to know a little bit of what they are planning.

Now, we passed a Coastal Zone Management Act that is going to be fairly important to our State's rights.

I happen to represent a district that includes the Los Angeles-Long Beach area. We have lots of oil wells, and a half-dozen big oil refineries in my district, and many smaller ones.

I have a lot of tank farms and tankers coming in and going out.

All of this is going to be under our coastal zone management program, and where you want to build a tank farm or additional refinery, it has to get the approval of our coastal zone management in each State.

Now, we are talking about what they are doing wherever it is, out beyond 3 miles.

Now, I have a letter here from the Assistant Secretary of the Interior, and we are talking about a possible surplus of oil on the west coast, and what we are going to do with it by 1980, and I just read from the last paragraph which says:

> Some recent estimates from the industrial sector have concluded there will be a large enough excess supply of crude oil on the West Coast by 1980, and that is Alaskan off-shore oil, to justify such a pipeline.

Now, they are talking about a possible pipeline because we may not have refinery capacity enough to handle it.

A number of weeks ago I had a tanker sitting for 3 weeks out in my harbor, because there were no storage facilities to unload it. So when we are talking about bringing this kind of oil in, you have to have lines, you have to have tanks, you have to have refineries or pipelines to get it out.

Now, if we are going to have a surplus like you are talking about by 1980, are we then talking about expanding these facilities down there, in the sense forcing the people to build the refineries, which I am not

opposed to because I have a refinery district; are we going to push these things on them, or are we going to institute this pipeline which you say they are presenting, conducting a feasibility study on, for a pipeline from the west coast to the Midwest; or is this oil going to be sold to other countries, such as Japan?

Mr. HUGHES. Sir, nobody can answer that question definitely.

Although southern California may have an excess by 1980, there may be other parts of the country, and we would expect other parts of the country would be in deficit, and we would like to find some way to move that oil, whether refined or crude, from the area of excess to an area of deficit.

Mr. ANDERSON. If you bring it in so fast into a port where they are already at capacity with their refineries, we are trying to find additional ground for new refineries, we are trying to get deeper channels to bring this oil in; but if we are going to have this tremendous load in there, how are we going to be working with our coastal zone management program in doing this, so we do not find the whole efforts of our last years going down the drain?

I would like to know how your overall program is going to cope with this.

Mr. HUGHES. One of the areas the Department feels it must increase its competence in is in shoreside impact.

Although one of my people said earlier the States have absolutely the right to control development within the State areas, within 3 miles and on shore, we recognize the on-shore impacts are singly the most important fact, particularly the east coast States and southern California are concerned about.

The only thing I can say at this point is that there will be a lag period between potential leasing and the time that field is developed.

Mr. ANDERSON. I would want to have this shoreside impact determined before you let the leases.

Are you going to let the leases and get the production out there before you study the shoreside impact?

Mr. HUGHES. It is not a yes-or-no answer, but probably the latter rather than the former.

It is our intent to proceed with the leasing program and expecting that both the Coastal Zone Management Act, as it is administered by the Department of Commerce, and the environmental impact statement process and the additional Federal help that we can provide to the States in terms of planning for future impact, would in the interim period between the time the leases are sold, assuming they will be sold in a given area, and the time the leases are developed, there would be a matter of years, probably 4 to 8 years, depending on the area, during which time the States can proceed with their orderly planning on how to deal with any future development.

Mr. ANDERSON. Thank you.

Mr. BAUMAN. Can I ask a question, Mr. Chairman?

Mr. DOWNING. We have had this gentleman on the stand for over an hour.

Mr. BAUMAN. If that is the case, have you consulted systematically up to this point with the coastal zone management office in your policies on leading?

Mr. HUGHES. We have talked to them. As to whether or not it is consistent, would you want to talk to that, Frank?

Mr. EDWARDS. Well, all of our requests for comments on the leasing process call for nominations, draft environmental impact statements. These are the sorts of things we have requested comment on. They are reviewed by them.

We have contacted them probably more sporadically than systematically. I think this is one of the areas we must improve our contact, to work more cooperatively than we have been able to do in the past.

Mr. DOWNING. Thank you, Mr. Secretary.

The Chair has received a letter from Mr. Frank W. Rogers, Washington representative of the Western Oil & Gas Association, submitting a statement.

Without objection, the letter dated December 9, 1974, and the statement attached thereto will be made a part of the record at this point.

[Letter and statement follows:]

WESTERN OIL & GAS ASSOCIATION,
Washington, D.C., December 9, 1974.

Hon. THOMAS N. DOWNING,
Chairman, Subcommittee on Oceanography, House Merchant Marine and Fisheries Committee, Room 1337-A Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed please find 20 copies of a statement by the Western Oil and Gas Association on H.R. 16411 and H.R. 17517, to amend the Coastal Zone Management Act, which are presently being considered by your subcommittee.

Although we are unable to present oral testimony at this time, we would very much appreciate it if you would make the enclosed statement a part of the Committee's hearing record.

If the Association can provide you with any further information or views on this matter please call upon me.

We would appreciate your sending us six copies of the hearing record when it is available.

Very truly yours,

FRANK W. ROGERS,
Washington Representative.

STATEMENT OF WESTERN OIL AND GAS ASSOCIATION REGARDING H.R. 16411 AND H.R. 17517

Mr. Chairman, and Members of the Subcommittee: The two bills, H.R. 16411 and H.R. 17517 under consideration by your Subcommittee would, if enacted, severely curtail the search for energy reserves in the United States to the point where this country would be at the mercy of foreign oil producing nations for many years to come.

The United States today relies on oil and gas for approximately 75% of its energy needs. From all indications, this need will increase during the next decade, and oil and gas will continue their dominant roles.

Our industry is wholeheartedly in agreement with the thesis that the environmental aspects in exploring for and producing oil and gas from the Outer Continental Shelf are of paramount importance, and the oil industry has spent millions of dollars in research and development of new techniques to assure that its operations are conducted compatibly with the ocean environment. However, we are at a time and place in history where we are using up our domestic reserves at a rate greater than we are finding them to a point where we are importing approximately 6.4 million barrels a day at an annual cost of 23 Billion Dollars. If this rate continues to climb with domestic reserves decreasing, this country will suffer balance of payment deficits of bankruptcy proportions.

At the same time, our neighbor to the north, Canada, has served notice on us that it plans to phase out its crude oil exports to the United States by 1983.

We have been receiving about one million barres a day from this source and now it is drying up. This should make it clear to the Congress that the only secure supply of crude today is that within a country's own borders. To this end we must utilize the Outer Continental Shelf to the fullest extent if we are to avert a national tragedy. If this time should ever comé, our country, without sufficient oil, will deteriorate to a second-rate power where it will be subject to the whims of any nation with strong petroleum reserves.

In 1953 the Congress, realizing that domestic onshore reserves were becoming more difficult to find, passed the Outer Continental Shelf Lands Act empowering the Secretary of the Interior to lease certain submerged lands for the purpose of exploring for and developing oil and gas reserves. Since that time 36 lease sales have been held resulting in the issuance of 2,500 leases involving about 10 million acres. Between 1953 and 1973, 3.2 billion barrels of oil and 20.5 trillion cubic feet of gas have been produced from the OCS. Current OCS lands production accounts for 11.8% of our domestic oil production and 14.0% of our domestic gas production. Without this additional productive capacity this cuntry would have had a difficult time in fueling our homes, buildings, cars, and industry. The leasing of these 10 million acres of submerged lands has been of financial benefit to the Federal government to the tune of 14 Billion Dollars in bonuses in addition to royalties on production (500 million bbls. of oil and 3¼ trillion cubic feet of gas).

Over these 21 years since the passage of the OCS Act the regulatory process on the OCS has been completely overhauled. Inspectors have increased from 12 in 1969 to 126 in 1974. Six new OCS orders and six revised orders providing for stringent safety requirements have been issued. Other safety requirements are now pending and will no doubt be placed in effect.

The Geological Survey has estimated that the OCS may contain 65 to 130 billion barrels of oil and natural gas liquids and 395 to 790 trillion cubic feet of natural gas, all undiscovered recoverable resources. We need these reserves badly and we feel that our new techniques and the on-going research and development will permit us to recover them with little or no damage to the surrounding environment, either from an esthetic point of view or from pollution to the waters. There is a time lag of about three years between the leasing of OCS lands and the purchase of products from your local distributor. An even greater lead time would exist in frontier areas with harsh climatic conditions. As a result, the time is now if we are to maintain our present production and not have to rely any more heavily on foreign sources which are depleting our money resources.

The time has gone past where any of us can run our business irrespective of the environment and atmosphere in which we work. The oil industry has demonstrated its willingness and technical ability to conduct its exploration and development under strict governmental supervision. If the sales are allowed to continue, we can and will do the job to find the reserves this country needs so badly and it will be accomplished with very little, if any, adverse affect on the surrounding environment.

These two bills erroneously assume that development of the oil and gas resources on the Outer Continental Shelf is inimical to State coastal land use planning. They give the government of the adjacent State an absolute veto power over development of Federal resources, resources which properly belong to each of the fifty States. We believe that effective coastal land use planning can proceed concurrently with adjacent Outer Continental Shelf development, i.e., that the impact of such OCS development will be so minimal in its impact on land use as to provide no deterrent to whatever plans the adjacent State has for its coastal zone. The 3-mile band of submerged lands, granted to each of our coastal States by the Submerged Lands Act of 1953, is an adequate buffer—if indeed there is a need for such buffer—between Federal Outer Continental Shelf development and coastal State land use plans.

The only purpose the bills before you today will serve is to restrict offshore operations. Please remember that the crude oil which we'll import from abroad is approaching 35% of our total consumption, and to restrict offshore operations in any way in the face of these increasing imports would be in direct opposition to the Administration's stated goals of reducing imports and increasing exploration for and production of oil and gas on the Outer Continental Shelf.

We appreciate your cosideration of our views and request that they be made a part of the permanent hearing record.

WESTERN OIL AND GAS ASSOCIATION,
Washington, D.C., December 20, 1974.

Hon. THOMAS N. DOWNING,
Chairman, Subcommittee on Oceanography, House Merchant Marine and Fisheries Committee, Washington, D.C.

DEAR MR. CHAIRMAN: When the Western Oil and Gas Association submitted a statement of its views on H.R. 16411 and H.R. 17517 at the latest hearing on these bills, we were not aware that your subcommittee would hear testimony on H.R. 17508.

We would, therefore, like to submit a supplemental statement expressing our views on that bill. We would appreciate it very much if you could make this a part of your subcommittee hearing record on these bills.

Very truly yours,

FRANK W. ROGERS,
Washington Representative.

STATEMENT OF WESTERN OIL AND GAS ASSOCIATION, DECEMBER—1974

Chairman Downing and members of the subcommittee; this statement is submitted for the public hearing record on behalf of the Western Oil and Gas Association.

The bill, H.R. 17508, seeks to impose a moratorium on all Federal OCS oil and gas leasing until June 30, 1976. While there is a provision in the bill which would provide for a lifting of the moratorium prior to that time, if a State's coastal plan is completed and approved by the Secretary of Interior, the present rate of progress being made on State coastal planning makes it doubtful that any State plan will be ready for approval prior to the June 30, 1976 date.

We are confronted then by a bill which, if entacted, would preclude all Federal OCS leasing for the next eighteen months. This is an unwarranted, even dangerous, proposal. The evidence is overwhelming that we need to take every action which would increase domestic production of crude oil and natural gas. The Department of the Interior has found that orderly development of the continental shelf is essential if we are to meet our continuing and serious energy shortfall. We agree, and are strongly opposed, to the enactment of H.R. 17508.

The author of H.R. 17508 apparently believes that coastal zone planning cannot take place concurrently with oil and gas development on the Outer Continental Shelf. This is not the case as is evidenced by our present experience in California.

California is further along in developing a coastal plan than any of our other coastal states. It has been determined that the State's plan will consist of nine elements. Six of these have been the subject of State-wide public hearings. The entire coastal plan is expected to be sent to the Legislature for ratification in late 1975; however, ultimate approval by that body is not expected until some time late in 1976. Our industry, along with all segments of California's economy directly affected by coastal planning, is working with Regional and State Commission's attempting to develop and shape a coastal plan whch will serve California's needs.

But one of California's major needs is for increased supplies of crude oil and natural gas. The State, each day, consumes 900,000 barrels more than are produced within its borders. Recognizing this, exploration and development efforts being emphasized, including further development of those Federal and State offshore lands already under lease, and preparations are under way for an anticipated Federal OCS lease sale late in 1975.

OCS leasing will have some impact on the coastal zone, but that impact will not be large enough to warrant a moratorium on additional OCS leasing, nor will it interfere with the planning process itself. Development of OCS oil and gas resources requires a long lead time. Leases which may be sold offshore California in late 1975 cannot begin to be substantially productive until the late 1970's or early 1980's. By this time, California's coastal planning process will be complete and a management organization in existence to evaluate the potential impact, on the coastal zone, of our industry's work. To delay, arbitrarily, all OCS leasing for eighteen months will not help the cause of coastal planning and will certainly hinder our industry's ability to provide the Nation with new oil and gas supplies.

We urge your Subcommittee reject H.R. 17508 on the grounds that it is unnecessary as an aid to coastal planning and damaging to the Nation's search for new, domestic petroleum supplies.

We shall appreciate your filing our remarks in the permanent record of the Subcommittee's recent hearings on this legislation.

Mr. DOWNING. The next witness this morning is Mr. Robert W. Knecht, Director, Office of Coastal Zone Management, Department of Commerce.

STATEMENT OF ROBERT W. KNECHT, DIRECTOR, OFFICE OF COASTAL ZONE MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE; ACCOMPANIED BY JAMES BRENNAN, ESQ., AND WILLIAM MORRISON, ESQ., OFFICE OF GENERAL COUNSEL

Mr. KNECHT. I have with me, Mr. Chairman, Mr. James Brennan and on my right Mr. William Morrison, from the Office of General Counsel.

I have a very short statement and, with your permission, I shall read it.

Mr. Chairman and members of the subcommittee:

It is a pleasure for me to be here today to discuss with you the operation of the coastal zone management program as it pertains to current proposals to expand Outer Continental Shelf oil and gas leasing.

The three measures under discussion all have in common one theme. They reflect anxiety on the part of the State and local governments that their needs and requirements may not be given adequate consideration by the Federal Government in its offshore leasing program.

I must say at the outset that I can understand the basic point of view of the States in this matter. Many States feel that they have not been adequately consulted by the Federal Government in preparation of leasing plans. Yet it is the States and localities which will bear the brunt of the impact from these very leasing decisions.

I commend Congressman Anderson and Bauman for their initiatives in this area. However, speaking for the administration, I must take the position at this time of opposing their particular approaches for reasons which I will elaborate on below.

There has been substantial discussion within the administration since controversy arose over the announcement of the Interior Department's plan to lease 10 million acres next year.

One result has been a wider appreciation of the constructive role that the Coastal Zone Management Act can play in helping the States prepare for offshore activities.

As you know, the President announced on November 13 that he will request of Congress a supplemental appropriation for the current fiscal year to provide additional matching funds to help the States accelerate their coastal program development in view of the prospective offshore activities.

This request, together with the necessary legislative amendment, will be submitted to the Congress in January with the regular fiscal year 1976 budget.

Most States are only in the first year of development of State coastal zone management programs. It is useful to recall that the first funds for implementing this program were not made available to States until March 1974.

While considerable progress has been made since that time, in having 29 States and two territories participation in this effort, most States are still a least 2 years from completion of their management program development efforts.

It is believed that enactment of one of these measures or something similar would serve as a disincentive to the States to proceed with the hard work of completing and implementing comprehensive State coastal zone management programs.

A second reason for speaking in opposition to the specific legislation before you is that the measures disrupt the State-Federal balance. As indicated before, a constructive rearrangement of the State-Federal relationship is now taking place and on a basis that will be sustaining in future years.

Providing each State with a veto for offshore energy development poses a real problem for the Nation. If a national decision is taken that there is a need to develop additional supplies of domestic energy and if it is determined that the best sources of oil and gas lie off our coasts, can the Nation afford to place in the hands of each State the decision as to whether or not these resources are developed?

The administration believes that the Coastal Zone Management Act as passed in 1972 offers the possibility to shape a constructive, cooperative, and mutually agreeable relationship between the States and the National Government in coastal decisionmaking.

In this regard, attention should be called to a key provision of the Coastal Zone Management Act. Section 307(c) (1) and (2) provide as follows:

> Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs.
>
> (2) Any Federal agency which shall undertake any development project in the coastal zone of a State shall insure that the project is, to the maximum extent practicable, consistent with approved management programs.

This point was referred to earlier in some of the questioning.

This language is potentially of great significance. When fully implemented, the Coastal Zone Management Act contemplates a reordering of the traditional relationship between State and Federal Governments in the coastal zone, and one in which the Federal Government will have concurred since State plans have to win Federal clearance before approval is given.

The other point to make about this language is that it underscores the importance of encouraging States to proceed as rapidly as feasible to develop their coastal management programs. As soon as their program obtains approval at the Federal level, they will possess, by the language just quoted, a significant advantage in their dealings with Washington.

There is another protection for the States that is in effect at the present time. It may be that the States are not fully aware of the provision I am about to cite, but it is available to help them assert their opinions with regard to proposed Federal actions in the coastal zone.

The provision is contained in the Council on Environmental Quality guidelines for preparation of environmental impact statements dated August 1, 1973.

Part 1500.8 "content of environmental statements" contains the following language as one of the points to be covered:

The relationship of the proposed federal action to land use plans, policies and controls for the affected area.

This requires a discussion of how the proposed action may conform or conflict with the objectives and specific terms of approved or proposed federal, State and local land use plans, policies and controls, if any, for the area affected including those developed in response to the Clean Air Act or the Federal Water Pollution Control Act Amendments of 1972.

Where a conflict or inconsistency exists, the statement should describe the extent to which the agency has reconciled its proposed action with the plan, policy or control, and the reasons why the agency has decided to proceed nothstanding the absence of full reconciliation.

We believe this provision governing proposed actions by Federal agencies gives the States right now a means of insuring recognition of their developing coastal zone programs.

In conclusion, I would now like to turn to some of the specific language of the bills before you at the present time.

The Department of Commerce has filed with the committee some reservations about the specifics of the language of two of these measures. There are definitional problems with H.R. 16411 in its use of the phrase "seaward of a State-established marine sanctuary" for instance.

There could well be arguments about what is meant by seaward and its extent, and also one can find varying definitions of State sanctuaries in different jurisdictions.

In the proposed bill, H.R. 17517, there is a reference to a finding by the Governor of a State that all Federal activities are "consistent with the coastal State's activities and policies relating to the coastal zone."

This would be in advance of perfection and adoption of a State coastal zone management program and would, therefore, leave considerable ambiguity as to what a State's activties or policies might be with regard to its coastal region.

To repeat my opening remarks, I understand the point of view which has led to the introduction of these measures. However, the administration believes that the Coastal Zone Management Act, together with the provisions of the National Environmental Policy Act, already contain sufficient safeguards for coastal States during their program development process.

Again, I thank you, Mr. Chairman, and we would be happy to answer any questions you have with regard to the statement or any other aspect of our program.

Mr. DOWNING. Thank you very much, Mr. Knecht.

This is a very informative statement, and one of your reasons for opposing is that it would put more pressure on the States to develop their coastal zone management programs.

Mr. KNECHT. That is right, Mr. Chairman.

Mr. Chairman, we believe that the Coastal Zone Management Act contains two important incentives to encourage State and local government action in this field.

One of them is the provision for financial grant assistance. But the second, we think, ultimately the more important, is the provision that Federal actions after a State completes its program are to be consistent with the State's approved program, and to bring that consistency re-

quirement into being in full flower, so to speak, prior to the time the State has a fully developed and comprehensive program, might be a disincentive in the long term.

Mr. DOWNING. Has the Federal Government adequately funded the States to go forward with this program?

Mr. KNECHT. Well, let me answer that in several ways.

With regard to the funding made available for the first-year grants, and that was made available beginning in March of this year, we were about 35 percent short on the average of meeting what we felt and what the States felt their firm requirements were. So the $9 million made available for the first-year funding seemed to be somewhat short.

With the decision of the administration to request of the Congress an additional $3 million to join the $9 million available this year for second-year grants, making a total of $12 million, we believe we can meet requirements insofar as we now understand them.

Mr. DOWNING. The committee yesterday unanimously passed out a bill which would increase the funding in the sum that you mention.

Mr. KNECHT. That is very good news.

Mr. DOWNING. You state that you believe that the Coastal Zone Management Act, together with the National Environmental Policy Act, constitutes sufficient safeguards for the coastal States.

Well, this was not true in the case of Santa Barbara, was it?

Mr. KNECHT. Well, of course, Santa Barbara occurred in 1969, well in advance of the time that the Coastal Zone Management Act existed, and I think in advance of the time that the National Environmental Policy Act existed, so the safeguards I am discussing have come into being since the Santa Barbara blowout.

Mr. DOWNING. At that time I believe the State of California had certain laws regulating offshore drilling, which apparently the Federal Government did not observe.

Mr. KNECHT. Yes; you are, of course, referring apparently to the lack of correspondence between Federal and State leasing procedures and regulations.

My use of the word "safeguard" is in a different context, having to do with adequate planning for onshore impacts. I was referring specifically to three things, Mr. Chairman, and perhaps a reiteration might be helpful.

It seems to me there are three safeguards that are important. First, the environmental impact statement requirements I referred to under the National Environmental Policy Act require a Federal agency to rather carefully set down the alternatives open to it and the environmental impact of a proposed decision in advance of that time.

The point of the quotation in my testimony was to indicate that the Federal agency has to take account of developing State land use plans, as well as approved State land use plans. We would consider the coastal zone plan a developing land use plan in that context.

The Federal agency has to go further and describe, if it chooses to take an action contrary to a developing State program, why it is taking that action.

It seems to me if the Federal Government does not do a good job of that, that the State has remedies open to it with regard to challenging the adequacy of an environmental impact statement.

The second safeguard I did not refer to earlier, but the Coastal Zone Management Act, as passed by this committee in 1972, contains the provision that would allow a State to take a geographically segmented approach to its coastal zone; that is to say, to plan and develop a program for only a portion of the State's geography in advance of the entire State, and to submit it for Federal approval.

The State of New Jersey, for example, is considering that approach in developing its coastal program.

Mr. Chairman, that would mean the Federal consistency provisions would come on the line earlier with reference to a particular portion of the State's geography than might otherwise be the case for the entire State.

The third safeguard, the existing coastal zone management legislation requires Federal agencies to cooperate and coordinate their programs with the States during the development process under section 305 of the act.

That requirement for cooperation and coordination might be considered a relatively vague one, but I think there are certain implications there with regard to the actions of Federal agencies that will be helpful with regard to the coastal States' position.

Mr. DOWNING. Somehow I have the feeling that a part of the urgency in rushing into these leases is to do it before the States enact legislative conditions which would make it more difficult; am I right?

Mr. KNECHT. Well, I really cannot answer that question because I really do not know the genesis of the Department of Interior's leasing schedule, and to what extent it has been in existence for several years.

I believe that it probably has been in existence for a considerable length of time, independent of the timetables the States are choosing to follow in developing their coastal zone management programs.

That is a question better directed to the Interior Department.

Mr. DOWNING. Mr. Anderson?

Mr. ANDERSON. Thank you, Mr. Chairman.

When you and I talked, Mr. Knecht, a week or so ago, you were one of those who informed me California would not have its coastal zone management program in condition that would be approved by the Secretary prior to 1976, at the earliest.

Just so we know here, when do you expect the coastal zone management program to be approved for Maryland and Virginia?

Mr. KNECHT. Well, Mr. Anderson, I have before me a list of State timetables.

Mr. ANDERSON. Target dates?

Mr. KNECHT. Yes; that the States themselves have put forward as the result of their initial applications to us.

In some cases these were preliminary and the situation with regard to a fuller appreciation of prospective oil leases activities could change that.

With that caveat, you asked me about Maryland.

Mr. ANDERSON. Maryland and Virginia, just so we know for the record.

Mr. KNECHT. Maryland is indicating a July 1977 approval date.

Virginia is indicating August 1977.

Did you ask for the other States?

Mr. ANDERSON. No; just so we know what our ballpark is.

Now, you mentioned that you felt that we had a safeguard there, about the environmental impact statement.

Now, we are led to believe that there is going to be a schedule for leasing offshore in California in July of 1976.

Is there any question in your mind with regard to what environmental impact statement will be reported, there will be any change in the date of those oil leases being sold in July of 1976?

Mr. KNECHT. I believe it is July of 1975.

Mr. ANDERSON. You are right, it is July of 1975.

Mr. KNECHT. Well, I have been at several hearings where that question has been directed to the ultimate decisionmaker—that is to say, the Department of Interior—and I have heard their answers to the effect that the decisions have not been taken and will not be until the environmental impact statements have been prepared, circulated, and comments received, and other factors put into the decisionmaking process.

Mr. ANDERSON. And made a matter of record, but the sale of leases is still in July of 1975.

Is there any doubt in your mind that that will happen?

Mr. KNECHT. There is a substantial doubt in my mind.

Mr. ANDERSON. We will see when July 1975 comes around.

You also raised the point on your last page about the question of what is seaward of the State-established marine sanctuaries, and you say there are definition problems. You say there could well be arguments about what is meant by seaward and its extent.

What other meaning do you get out of the word "seaward" of a marine sanctuary, than what I get?

Mr. KNECHT. Well, I think the dialog that took place earlier clarified that.

Mr. ANDERSON. Is there any doubt in your mind now that seaward is seaward?

Mr. KNECHT. No.

Mr. ANDERSON. If there is a question around an island, I assume it would be a circumference around an island rather than parallel to shore.

They are the only two cases I can see.

Mr. KNECHT. I agree with that, Mr. Congressman, but the other points of our concern had to do with the definition of sanctuaries; and I think we had discussed that earlier.

In fact, the State of Massachusetts has something it calls ocean sanctuaries.

Mr. ANDERSON. Specifically, in my legislation, I wrote in State-approved sanctuaries, and if they do not fall within that definition, they do not fall within it.

At the time you discussed it with me, you said one of the weaknesses of my bill was California was one of the few States that had State sanctuaries, so it was at your suggestion that I came in with this bill No. 2, which was to be broader, so that it would take care of these other States such as Massachusetts and other areas, so their problems would be taken into consideration.

Now, you talk about a balance on page 3. You say:

> A second reason for speaking in opposition to the specific legislation before you is that the measures disrupt the State-Federal balance.

Mr. KNECHT. The kind of balance referred to there was the kind of balance that is conceptualized in the existing framework of the coastal zone management legislation.

Mr. ANDERSON. But that does not go into effect in California until 1976, and in Maryland and Virginia until 1977.

What Federal-State balance does my proposal upset today?

There is not any Federal-State balance today.

Mr. KNECHT. I think one of the key features of the Coastal Zone Management Act is that it sets up a mechanism whereby a balance can be created, because until a State has a comprehensive management program approved at the State level and ready to submit to the Federal Government, there can be no general understanding as to what that State's coastal policies are like.

Mr. ANDERSON. But, I mean, you are aware. They are going to lease for oil drilling, sell those leases in July of 1975. We cannot approve ours until 1976.

What is it you are talking about that is going to happen between now and the time those oil leases are sold and the wells are going to be drilled out there?

Mr. KNECHT. Let me speak, if I can, generally, because there are different problems in New Jersey, California, and Maryland.

The administration is going to request an additional $3 million for fiscal year 1975.

We intend to focus those grant funds in the States that are potentially impacted by lease sales in the near future.

At least, they will be made available to the States. Obviously, we cannot force the State to apply for and receive those funds.

The studies we will be encouraging will involve primary and secondary impacts.

Mr. ANDERSON. After the wells are drilled and are out there.

Mr. KNECHT. I am hopeful the States will see fit to apply early, and undertake studies initially that would produce information that would be directly cogent to the question of what leases should be offered, what leases should not be offered, what kind of stipulations might be considered by the Interior Department in the lease sale. Information of this type developed by the State between now and July of 1975 could directly affect the nature and shape of the pending lease sales.

Mr. ANDERSON. My bill now, H.R. 17517, which I introduced somewhat at your suggestion, I do have a 2-year limit as far as California is concerned.

In other words, when the coastal zone management program goes into effect, my bill goes out of effect, so the worst that even a bad Governor could do would be to delay the program for 2 years.

I do not know of any Governor that would do that. The Governor would say: Do not do it here, do it over here.

How would you feel a 2-year delay would be so bad when your administration already says, We can allow the oil company 5 years to delay before they can make a decision on drilling, because we are short of a little drilling equipment?

Mr. KNECHT. Well, I think that point was fully exposed in the questioning of the first witness.

Mr. ANDERSON. You are speaking for the administration.

When you spoke before, you were speaking for the coastal zone management program.

Now, you have the information from the administration and you are speaking for the administration.

Mr. KNECHT. I think that the elements raised in that question are beyond those that I am directly connected with.

Mr. ANDERSON. In other words, you think it is fair to give an oil company 5 years to do something, but you feel a State should not have any chance even to delay for 2 years?

Mr. KNECHT. As a private citizen, I would hope that once industry acquires tracts, they would proceed as expeditiously as possible to obtain the oil, because we need it.

Mr. ANDERSON. That is all, Mr. Chairman.

Mr. DOWNING. Mr. Bauman?

Mr. BAUMAN. Thank you, Mr. Chairman.

I would suspect right now the oil companies already have the plans drawn up for onshore development and the options on land, and how much they are going to spend on the refinery in Worcester County, Md., or wherever else they may be.

This will be done before these leases are ever bid upon.

That being the case, it seems to me the position you have taken for the administration, agreeing with the Interior Department is the best argument I have ever heard in favor of a State completely ignoring the Coastal Zone Management Act and going ahead and adopting their own legislation on the impact that offshore leasing will have.

If the two agencies are working hand-in-glove here, one to lease at all costs to meet energy needs and the other agency is agreeing, for whatever reason, there does not seem to be much point in the Coastal Zone Management Act.

Mr. KNECHT. Well, I agree with your general thesis that the timing is unfortunate.

I, too, wish the coastal zone program was further along, that the act had been passed earlier or the leasing program was not on the timetable it is on.

It is unfortunate, and I certainly agree with your statement, that the pressure is already on coastal communities with regard to actions that the private sector is taking concerning the acquisition of sites.

We know of a number of specific examples where local and State governments are not well prepared.

I would rather, though, look at it positively and take, again, the case of New Jersey, concerning the kind of coastal legislation was indeed passed a year ago. It is called their Coastal Area Facilities Review Act.

This was passed by the legislature in an attempt to control the siting of heavy facilities along its shoreline.

Now, what they are doing is to set up a permit system to govern and to regulate these facilities. The State is considering taking that same geography and adding to it the kind of comprehensive management program required under the terms of the act; we believe they can do this in a relatively short time, then, after approval, the Federal consistency requirements that are promised in the coastal zone legislation come into being, and that is to the States' advantage.

Mr. BAUMAN. Is it conceivable that if the need for energy is the overriding consideration, that the coastal zone management officials will require that the State plan include onshore refineries and pipelines and complementary facilities for offshore drilling, even if the State does not want it?

Mr. KNECHT. One of the requirements in the Coastal Zone Management Act is that the Secretary of Commerce, before he approves a State program, assures himself that adequate consideration is incorporated within that proposed program of the national interest in the siting of facilities that are designed to meet more than local needs.

In our view, we will have to look at it on a case-by-case basis.

The whole point of the Coastal Zone Act is to provide a Federal review of the adequacy of State process, and not, per se, the outcome of the result of the application of that process in any particular situation.

I think that point is made clear in the legislative history and the conference report. Otherwise, we would have Federal zoning, and I think no one sees the act that way.

Going, in fact, to our section 306, the regulations that we published in draft form in August, that will govern the Secretary's consideration and approval of the State management program, we have the following words:

> The requirement should not be construed so as compelling the states to accept certain types of facilities, but to insure that such national concerns are reflected at an early stage in the State's planning activities.

We interpret the national interest clause as primarily one of preventing the arbitrary exclusion of certain kinds of facilities that serve a larger interest.

Arbitrary exclusion, we think, are the operative words and we have to evaluate each particular case as it appears, as it comes before the Secretary of Commerce.

Mr. BAUMAN. Thank you.

Mr. DOWNING. Mr. Lagomarsino?

Mr. LAGOMARSINO. Mr. Knecht, on page 3, you say:

> It is believed that enactment of one of these measures or something similar would serve as a disincentive to the States to proceed with the hard work of completing and implementing a comprehensive State Coastal Zone Management Program.

It seems to me it would be exactly the opposite, at least with H.R. 17517, the measure by Mr. Anderson and the Bauman bill, which I have coauthored, because there are time limits set; in one case, 3 years, and in the other, approximately 1½ years, after which time the bill would not be in effect.

This legislation would not be in effect, and there would be nothing until the plan was actually adopted and approved by the Secretary.

So it seems to me, if anything these two bills would be an incentive, these two would be.

You can argue about the other sanctuary bill, but with regard to these two bills, I would submit it would be exactly the opposite.

It would be an incentive rather than a disincentive.

Mr. KNECHT. Your point is well taken.

On the other hand, we think there are ways in which a State could develop a comprehensive program, and have it approved and imple-

mented for a restricted portion of its geography; perhaps the one under pressure from OCS activities in even a shorter time than that.

Mr. LAGOMARSINO. That might be, but it probably would require legislation.

Mr. KNECHT. Indeed it probably would. But in most States it is believed legislation will be required to conform with the requirements of the Coastal Zone Management Act.

Mr. LAGOMARSINO. I might say that I think your reservations with regard to the definition of seaward, especially in California, might cause some problems when your talk about the offshore islands, at least in the Santa Barbara channel there are sanctuaries around each of those islands and that is circular. If you extend the line seaward, whatever that means, you might effectively cover the entire State.

Mr. ANDERSON. That is the extent to what our Government can go.

Mr. LAGOMARSINO. Again, it depends on what seaward means.

Mr. ANDERSON. Right now we only go out 12 miles.

Mr. DOWNING. But we have jurisdiction, as I understand it, of resources on the bottom of the sea out to the Continental Shelf.

Mr. KNECHT. Yes, Mr. Chairman, that is right, and I think the point is well taken.

Mr. LAGOMARSINO. Maybe that is what we want to do.

I have no other questions.

Thank you, Mr. Knecht.

Mr. DOWNING. Mr. McCloskey?

Mr. MCCLOSKEY. Thank you, Mr. Chairman.

Mr. Knecht, in your testimony you mention the purpose of the act being to assist the States to develop coastal zone plans. I am going to quote these to you because what I want to find out is whether or not your office is equipped and is able to conduct its responsibilities under these two provisions with assistance to the States. However, in sections 307 (a) and (b), it says as follows:

> In carrying out its functions and responsibilities under this title, the Secretary shall consult with and cooperate with, to the maximum extent practicable, coordinate his activities with other interested federal agencies.

Then in subsection (b) it says:

> In case of serious disagreement between any federal agency and the State in development of the program, the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

Now, a fairly serious disagreement has arise between the Coastal State Governors, we are told by Interior, as to what Interior planned to do, which clearly affected the coastal zone.

Under this statute, as I understand it, the Secretary of Commerce would be required to mediate the differences between California, for example, and any Outer Continental Shelf drilling proposed by Interior that would be in disagreement with the State of California.

Do you agree with this?

Mr. KNECHT. Yes; certainly, if the State had a federally approved program.

Mr. MCCLOSKEY. Now, when did your office first become aware of the Outer Continental Shelf drilling proposal by the Department of Interior?

Mr. KNECHT. The southern California proposal, in particular?

Mr. MCCLOSKEY. Yes.

Mr. KNECHT. Mr. McCloskey, I do not recall, probably about a year ago.

Mr. McCLOSKEY. Now, when did you first become aware of the serious differences that might arise between California and the Federal Government?

Mr. KNECHT. I would have to check our records, but we are in close communication with the staff undertaking coastal zone planning in California under proposition No. 20.

Mr. McCLOSKEY. Were you even invited to the Governors conference?

Mr. KNECHT. Yes; we were.

Mr. McCLOSKEY. Did you have any opportunity to mediate the differences between the Governors and the Department of Interior?

Mr. KNECHT. As soon as we were aware that there was a problem developing, Mr. McCloskey, a series of meeting took place between ourselves and the Department of Interior.

This goes, in part, to the point of an earlier question asked as well as to how closely we work together.

We probably had a total of seven or eight meetings between NOAA, and Mr. Carter, Deputy Under Secretary, and Mr. John Whitaker, Under Secretary of Interior, on these points.

These meetings were prior to the meetings that the Administration called with the Coastal Governors.

We were involved in that meeting and, in particular, Dr. White made a formal statement to the Governors on Thursday morning, November 14.

Mr. McCLOSKEY. But, you see, my problem is that it does not look, from any testimony before this committee thus far, that the Interior Department recognizes the Secretary of Commerce as the mediator of differences between Interior and the coastal States.

The Department of Interior's testimony was fairly highhanded, that they are making the offshore drilling proposals. I did not hear any concession on their part that they are looking to the Secretary of Commerce to mediate the disputes with the coastal States.

You were here when they testified, were you not?

Mr. KNECHT. I believe that they said that they had no problem with the role of the Secretary of Commerce after the States had an approved management program.

Mr. McCLOSKEY. But that is my point. Section 307(b) does not necessarily refer to that. It says in case of a serious disagreement between any Federal agency and the State, in the development of the program, which would mean that right today we do not need to wait for any program by the State. The development of the State program and any differences with Interior puts an obligation on the Secretary of Commerce to mediate the differences, does it not?

Mr. KNECHT. I believe so.

Mr. McCLOSKEY. Now, I just want your candid judgment. Does Interior accept that interpretation of the law?

Mr. KNECHT. They recognize we are not disinterested parties in the situation.

Mr. McCLOSKEY. Not disinterested, but do they recognize your responsibilities under the law of the United States to mediate your differences?

Mr. KNECHT. I cannot speak for the Department of Interior on that point, but may I elaborate?

Mr. McCLOSKEY. You certainly may, but this is what I want, this commitment from you.

You are the Secretary of Commerce's agent. You are the agency charged with the coastal zone management assistance in the conduct of this particular act, when it says the Secretary shall mediate differences. In effect, he is acting on your direct advice.

Now, I guess what I want is the commitment that your office will undertake the responsibility of mediating these differences between the coastal States and the Department of Interior. I want to frankly ask, with the administration proposing $3 million in additional grants to the coastal States, are you staffed and equipped and have the appropriations necessary to undertake the mediation of these differences?

Mr. KNECHT. We intend to become so staffed.

Mr. McCLOSKEY. The administration calls the Governors in and says, This is what we are going to do. We are going to appropriate $3 million, so we can do it better.

Part of your assistance is from your Washington office to the States.

Let me give you three examples. The AEC wants to put nuclear plants in the coastal zone, and they have a bill to that effect.

The Maritime Administration and Department of Interior want the deepwater oil port legislation.

We have a letter from the Secretary of Interior saying this is crucial legislation, and that bill does, of course, permit State veto of deepwater ports if they want.

You have refineries, pipelines, distribution facilities, and Interior wants that.

You have the Federal Energy Office and Federal Energy Council that may have Federal plans developing for coastal zones.

Is your office equipped to maintain a constant monitoring and scrutiny of developing Federal proposals so that information can be conveyed by you to each Coastal Zone Commission?

Mr. KNECHT. We have a staff of 30 people, Mr. Congressman.

We are trying to apply that staff as efficiently and effectively as we can.

Mr. Congressman, a portion of the staff is devoted specifically to the problem of relating to other Federal agencies and their developing programs, especially those that have an impact on the coastal zone.

I think we can make a substantial impact in this area. Whether or not we are adequately equipped is a question of judgment.

I am certain that we will be provided the resources needed.

Mr. McCLOSKEY. But going back to this section 307 in carrying out his functions and responsibilities, the Secretary shall consult with and cooperate with and to the maximum extent possible coordinate his activities with other Federal agencies.

You have a small staff which is engaged in reviewing coastal plans. You are going to require absolute cooperation and affirmative input from Interior, AEC, the Maritime Administration, and the Federal Energy Office, to name four, in order that you can carry out your responsibilities under this act.

Mr. KNECHT. As a matter of fact, we have recently defined our view of which are the principal affected agencies in the review process, and we find about 25 agencies involved.

Mr. McCloskey. May I ask that you immediately advise this committee if there is any reluctance on the part of any other Federal agency to provide you the information necessary to carry out this responsibility?

Mr. Knecht. We will be happy to do that.

Mr. McCloskey. I can understand that can happen, and certainly Interior was not very kind about advising you of the full details of their offshore oil program, at least from our testimony. It seems to me, Mr. Chairman, unless this committee serves as a watchdog and unless you feel an obligation to advise us, we cannot do our job here.

Mr. Knecht. We will be happy to provide you that information.

Recalling the timetable, as I mentioned, Federal funding was really not available to States until this springtime, so it has been less than 1 year. We became aware of the problem in southern California almost simultaneously with the first Federal funding.

There has not been a lot of time for this cooperation to develop yet. The program is still relatively new.

Mr. McCloskey. I guess, Mr. Knecht, what I would like to do is strengthen your hand and ask that you convey to the Secretary of Commerce my impression that neither the Secretary of Commerce as yet understands his obligation and certainly the other affected agencies of the Federal Government apparently do not understand that you have the final authority in that mediation.

I think that they should know that.

Thank you, Mr. Chairman.

Mr. Downing. Thank you, Mr. Knecht.

Mr. Knecht. Could I just respond a little further?

Mr. Downing. Yes, indeed.

Mr. Knecht. We agree with your statement on our responsibilities.

As a matter of fact, I have before me, in draft form, a statement that we intend to publish in the Federal Register, hopefully by the end of this month, that will describe our view of Federal agency responsibilities to consult with State agencies in the development of programs, and describes their role in the review and consultation process with the Secretary of Commerce prior to the approval of State programs.

Mr. McCloskey. Thank you, and good luck.

Mr. Downing. Thank you, gentlemen, very much. You have been most helpful.

Without objection I would like to insert into the record at this point a statement of our colleague, the Honorable Norman F. Lent, the Honorable Henry Helstoski, the Honorable Burt L. Talcott, and the Honorable G. William Whitehurst.

I think it is interesting to note in Congressman Whitehurst's statement that he sent out a questionnaire to constituents in the Second Congressional District, composed of Norfolk and Virginia Beach.

The first question asked was, "Do you favor drilling on Virginia shores in an effort to ease the oil shortage?"

The reply was a solid yes. There were 76 percent that said yes, they did.

[The statements follow:]

STATEMENT OF THE HONORABLE NORMAN F. LENT

Mr. Chairman, thank you for this opportunity to express my views on H.R. 17517 (Anderson) and H.R. 17508 (Bauman), to amend the Coastal Zone Management Act to provide for Federal-State cooperation in activities which may affect the coastal zone of a State prior to final approval of a State's coastal zone management program, and to suspend leasing until such a program is formulated.

I would like to lend my wholehearted support to the intent and principles contained in these measures. As a sponsor of similar legislation (H.R. 17571), I have long had serious reservations concerning the impact of the present Federal oil and gas leasing policies on the States, especially the Long Island area.

The purpose of the Coastal Zone Management Act of 1972 is to enable the Federal government to assist the States in protecting, preserving and restoring the quality of their coastal areas. This assistance to the States in establishing a framework for a balance between the social and economic needs and the need for protection of the coastal environment calls for a high degree of Federal-State cooperation. The clear intent of the Act is to include onshore development planning as one of the major considerations. The State of New York has applied for a grant to develop a comprehensive coastal zone management plan, but it is expected to take at least eighteen months for such a plan to be formulated and adopted by the legislature.

The recent National Ocean Policy Study* addresses itself to the complexity of Outer Continental Shelf oil and gas development and its affect on the coastal zone. One fact which becomes readily apparent from reading this study is that there is a lack of sufficient information at the present time about the character and magnitude of the environmental, social and economic impacts of OCS development on the states and localities adjacent to leasing.

The study points out that we already have approximately six million acres of Federally-owned lands on the Outer Continental Shelf presently leased for oil and gas development and the record of this leasing program is deplorable. There is little coordination or communication with the States affected prior to these lease sales and this has resulted in the States and communities having to carry the burden of the environmental, economic and social costs without the opportunity to plan for these costs or to contribute to the selections of leasing sites. Thus, the States are put into the unenviable position of reacting to, rather than co-planning with, the Federal policy makers. The very serious problems created under the present leasing and management practices will only worsen if the Interior Department is permitted to proceed with its plans to lease 10 million acres of OCS lands in 1975. There is a substantial question as to whether expanded leasing will ease the nation's fuel problems within the next five years and it would be unconscionable for Congress to permit the leasing without a full study, and state and local planning against environmental harm and adverse social and economic impact to state and local coastal areas, merely for the sake of giving the appearance of activity in energy exploration and development.

The most important recommendation made in this study is that no leasing should take place in frontier areas, such as the Atlantic, until the Department of the Interior demonstrates that such leasing is clearly necessary, safe, and in the public interest. This should have been the practice in the past and I am appalled that the Department of the Interior failed to adopt this as its guiding policy long ago. Necessity, safety, and the public interest must be the basis for *all* our governmental actions.

The Department of the Interior's decision to accelerate OCS development places squarely on the shoulders of Congress the responsibility for insuring that satisfying our energy needs does not conflict with the protection, preservation and restoration of our high quality coastal areas.

What the States require Mr. Chairman, is time to thoroughly examine and evaluate this development will have on them and I feel this legislation will provide the States with the necessary time for consideration.

Thank you, Mr. Chairman and Members of the Committee.

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*"Outer Continental Shelf Oil and Gas Development and the Coastal Zone", November 1974, a study prepared by the staff of the National Oceans Policy Study for the use of the U.S. Senate Committee on Commerce (93rd Congress, 2nd Session).

STATEMENT BY THE HONORABLE HENRY HELSTOSKI

Mr. Chairman, as you know, one of the most important and complex issues facing the people of my state and other Eastern seaboard states is the subject of offshore drilling for oil and gas in the Atlantic Ocean. It is a vast subject, laden with complexities, and countless arguments can be made in support of all sides of the question. Hence, today I commend you for taking the time and initiative to hold these hearings and to investigate further a highly controversial matter which affects millions of people living in the eastern United States.

Today, I would like to focus my remarks specifically on a bill I have co-sponsored designed to prohibit oil drilling off the Eastern Seaboard until the affected state could develop a comprehensive management plan. This bill would amend the Coastal Zone Management Act to provide that the Department of Interior shall suspend leasing on the Outer Continental Shelf for a period of two years or until such time as the affected state develops a coastal management plan.

The decision by the Interior Department recently to accelerate oil and gas leasing should provide the impetus for Congress to act quickly to make certain that our energy needs do not conflict with the need to preserve our land areas and coastal waters. While many of the states have started to develop a comprehensive coastal zone management plan, a majority of these states, including New Jersey, are at least one year, if not two years away from implementing such a program. As a result, I think it essential that the coastal states should have the opportunity to prepare a management program for the coastal zone area, and to consider the location of facilities and their impact prior to any gas and oil leasing off the Atlantic seaboard. Furthermore, it is my contention that states should have the right to veto offshore drilling altogether if it is determined that drilling would be detrimental to the resources and environment of the state.

Mr. Chairman, two very good articles concerning offshore drilling appeared recently in the *Bergen Record*, a N.J. daily newspaper. In the first article, entitled "Offshore oil is coming and Jersey will never be the same," staff writer David Corcoran takes a look at the future and forecasts the effects of potential oil slicks along the coast:

This is something the oil companies had said wouldn't happen, but here it is. Frantic efforts are mounted to bring the slick under control. Booms are thrown into the water. Absorbent cotton is dropped onto the slick from helicopters. But it is much too big, and the wind and waves are much too high. In two weeks the thick black crude oil will be washing up on Long Beach Island and oozing through the grasses of the wildlife refuge at Brigantine. Thousands of birds will die, and the summer season will be ruined. The shore will never be the same.

Mr. Chairman, as a Representative from a coastal state I am extremely concerned about the effects of our national energy policy on the people in my district, state and region of the country. While I fully agree that it is vital for us to explore all sources of energy, and to move as quickly as possible toward a goal of energy self-sufficiency, I am not convinced that the time has come to begin tearing up the floor of the Atlantic Ocean. We don't even know for example, how much oil we will be able to get from the Alaskan pipeline, yet the Interior Department has decided to accelerate leasing in the Atlantic.

The legislation before us today does not deter the development of our national energy program. Instead, this bill gives the affected states the opportunity to evaluate thoroughly and plan effectively for problems which may arise as a result of offshore drilling. Hence, in conclusion Mr. Chairman, I respectfully urge you and the other members of the committee to consider this bill favorably and to report out legislation which truly will be in the best interests of our Nation.

STATEMENT OF THE HONORABLE BURT L. TALCOTT

Mr. Chairman, thank you for the opportunity to testify before your subcommittee on behalf of H.R. 17517 and H.R. 17571 which provide for a delay in off-shore drilling until the full impact of such drilling on the environment can be assessed. I commend the Subcommittee for considering this matter which is of vital concern to the citizens of the central coast of California. The coastal areas of our Congressional District are visited and enjoyed by residents of our own District, and by people from all over the United States and the rest of the world. The coastal land, waters and wildlife in our area must be carefully protected from damaging

oil spills which harm not only the environment, but also seriously affect the ecological balance in the area.

I am a cosponsor of the legislation that the Subcommittee is considering. These bills are designed to prevent the implementation of off-shore oil drilling before the states have the opportunity to completely develop a Comprehensive Coastal Zone Management Act, as provided for in the Coastal Zone Management Act of 1972. This legislation would assure sufficient time to evaluate and weigh the potential advantages of new energy exploitation against the potential damage of oil spills.

The California coast has already suffered the damaging effects of oil spills; it should and must not have to do so again. The coastal area along the central coast of California is uniquely magnificent, and its natural beauty far outweighs the value of the area for oil-drilling purposes. Furthermore, the damages of an oil spill are not limited to aesthetic injury, as serious as that is. An oil leak may harm or destroy marine life along the coast, thus jeopardizing not only recreational interests, but livelihoods and food sources as well.

Mr. Chairman, I recognize the need for full utilization of America's energy resources, and I have supported efforts to this end. However, the environmental and ecological needs of present and future generations must be considered along with current energy demands. I believe that the legislation being considered would provide an orderly procedure for reconciling America's energy needs with the necessity for preserving and protecting the environment. Therefore, I respectfully request that the Subcommittee approve these bills promptly. Thank you.

STATEMENT OF THE HONORABLE G. WILLIAM WHITEHURST

Mr. Chairman and members of the subcommittee: I appreciate this opportunity to comment on the coastal zone legislation being discussed here today. The subcommittee and its Chairman, the Honorable Thomas N. Downing, are to be congratulated for addressing the perplexing problem of continental shelf development in an effort to free this country from the impact of oil embargoes while ensuring a minimal impact on the environment, and a proper observance of state and individual rights. With litigation involving the major participants pending, and controversy forming over what action should be taken, it is a situation that would try the wisdom of Solomon. It was the acerbic H. L. Mencken, I believe, who said, "For every knotty problem there is a simple solution—neat, plausible, and wrong." I am not here with a simple solution. I would, however, like to say a few things about this matter.

In October of 1973 I sent a questionnaire to constituents in the Second Congressional District, composed of Norfolk and Virginia Beach, Virginia. The first question asked was . . . "Do you favor drilling for oil off Virginia's shores in an effort to ease the oil shortage?" The reply was a solid "yes;" 76% favored that action. I might add that this was before the major crunch hit during last winter that resulted in closed gasoline stations and long lines. The energy crisis at that time did not have a top priority rating as reflected in answers to the question of what they considered the most important issue facing the nation at that time. Energy ranked fifth, below such concerns as inflation and the cost of living. But even during this period it was recognized that the potential for offshore oil should be looked into and, if found useful, developed.

May I also point out that the questionnaire asked if the United States' coastal boundary should be enlarged from 3 to 200 miles to protect our fishing industry, and that was supported by 85% of the respondents. I enclose a copy of the questionnaire with this statement.

The Interior Department is moving ahead to bring this resource into production. There is little question that the nation needs the oil. There is some question in my mind whether the Department is ready to effectively manage the program proposed, some 10 million acres. Under a proposed Outer Continental Shelf Planning Schedule issued by Interior last month, the Secretary could lease areas off the mid-Atlantic states by June of 1975, six months from now. This short time frame does not give the affected states time to construct a management program under the Coastal Zone Management Act. My own state, Virginia, did not receive the first management program development grant until last August, and not enough time has been allowed states to study the 1,300 page draft environmental impact statement issued by Interior.

Further, I believe the federal government should explore the new offshore areas to more precisely locate oil and gas and determine its potential worth before leasing tracts. Neither the federal government nor Virginia officials know the amounts available. Only widely speculative and greatly ranging figures have been announced, none based on hard evidence. There has been no known exploratory drilling in the mid-Atlantic OCS to date. An answer to the question "Is there oil off Virginia's coast, and in what quantity?" would put a parameter on the problems facing federal, state, and local governments, and industry. I favor exploratory drilling being undertaken immediately as a step toward effective management of publicly owned resources, and as an aid in helping determine the magnitude of necessary developmental impact onshore.

There is much merit in legislation proposed by my colleague, Representative Glenn M. Anderson. His H.R. 17517, which provides states with a mechanism for some control of offshore development, is a positive step. It recognizes the need for quick action to begin drilling while acknowledging the need for states to have direct input in such matters through the Governors.

Most state coastal zone management plans will not be completed for several months, extending in 1976 and beyond. I do not believe the entire offshore project should come to a halt while coastal plans are being assembled, as there is urgency for action. Exploratory drilling, for example, could be conducted in this period. And I do not favor the federal government issuing leases during this period without considering what the states are proposing for their coastal areas.

Additional federal funds will be needed to speed the states' programs. I support recommendations that additional funds be added to the coastal zone program for this purpose.

Mr. Chairman, I do not have to belabor the points that the Representatives from Virginia's First and Second Congressional Districts are concerned about the environmental impact of any development on the Outer Continental Shelf. Our two Districts comprise the entire length of the Atlantic coastal region of Virginia. Both Districts have large water-oriented recreational industries, several sport and commercial fishing industries, and important wildlife sanctuaries. The quality of our environment is of concern on a local, regional, and national level. There is much at stake in any action which might threaten the well-being of the coastal environment.

Therefore, I wish to state again that any drilling on the Outer Continental Shelf must be done with caution, that it must be done wisely, on a planned basis, and with meaningful cooperation with the states. To accomplish this the states must have time to prepare their coastal management programs and they must have an opportunity for adequate input to the OCS project.

The Virginia Outer Continental Shelf Advisory Committee's report of November 1974 lists some of the problems facing the state which will have to be dealt with and controlled. I am pleased that Dr. William J. Hargis, who has spoken to the subcommittee, will supply a copy. It is an excellent document. As one reads the list the magnitude of the considerations becomes apparent: Insure compatibility between any OCS actions and the currently evolving Coastal Zone Management Plan; Form an effective oil spill cleanup association; Support research to fill gaps in knowledge of the marine environment and the effects of hydrocarbons on the biota, particularly in the offshore area. If Virginia is awarded OCS control, regulations for leasing, production, and inspections must be established; responsibility must be assigned for all OCS lands to a state agency. If the federal government is awarded control an office to coordinate between state and federal agencies and industry must be created; legislation must be monitored regarding royalties. Along the immediate coastal area pipeline access must be controlled to keep corridors to a minimum; Criteria must be developed for approval of permits for the placing of structures, including pipelines, in the marine environment; The Wetlands Act must be restructured to encourage planning instead of reacting on a case-by-case basis. Regarding the onshore area, legislation must be framed and enacted requiring the state to increase its role in planning for and controlling the siting of developments such as refineries which will have regional as well as local impact; Consider to what use any realized OCS funds will be put; Local governments must be encouraged and assisted to plan for and regulate projected growth in their areas.

This last item may be one of the most difficult of all: The power, influence, and incentive that could be brought to bear by outside interests on local officials could be substantial.

The magnitude of these problems doesn't mean the project can't be accomplished. If the OCS drilling program is to be realized answers must be found and implemented. I believe it can be done, but only if it is approached in a systematic and realistic way.

Therefore I support a gradual phased leasing program to replace the Interior Department's plan to lease ten million acres in one year. I support state involvement in planning for the use of the Outer Continental Shelf, if for no other reason than onshore facilities will be needed to develop and support OCS efforts. The two will have to be coordinated. I call for and support special federal assistance to states pursuing OCS development. I support states being involved in onshore planning. And I urge caution in both onshore and offshore development to minimize the environmental impact and insure safe operation of the facilities.

I am urging orderly development of Outer Continental Shelf resources in the shortest reasonable time while providing for protection of the environment and state input to the program.

Thank you, Mr. Chairman.

RESULTS OF CONGRESSMAN WHITEHURST'S QUESTIONNAIRE, OCTOBER 1973

[In percent]

	Yes	No
Do you favor—		
1. Drilling for oil off Virginia's shores in an effort to ease the oil shortage	76	24
2. Removal of the earnings limitation for social security recipients	79	21
3. Congress adopting an annual spending ceiling which could not be exceeded	74	26
4. Legislation limiting imports as a means of protecting and supporting industries in America, even if higher prices result	46	54
5. Allowing abortion on demand through the 3d month of pregnancy, as provided by the recent Supreme Court decision	67	33
6. Busing of public school children to achieve or maintain an arbitrary racial balance in classrooms	9	91
7. Making Federal election day a national holiday	52	48
8. Extending daylight saving time to a year-round basis	72	28
9. Continued Federal spending to maintain U.S. superiority in space exploration and technology	59	41
Should we—		
10. Legislate a Federal income tax credit or subsidy for parents sending their children to private schools that do not practice discrimination	39	61
11. Approve a rise or extension of social security benefits coupled with an increase in the social security tax	51	49
12. Give tariff or other trade concessions to any nation that does not permit free emigration of its inhibitants	25	75
13. Expand trade and other exchanges with the Soviet Union and Red China	69	31
14. Change our coastal boundary limit from 3 miles to 200 miles to protect our fishing industry	85	15
15. Continue to adhere to our treaty rights maintaining sovereignty over the Panama Canal, even though Panama now wants control of the canal	85	15
16. Enact new laws that would be less severe in dealing with possession or use of marihuana	37	63
17. Restore the death penalty for certain crimes	87	13
In General—		
18. Do you believe that wage-price controls in effect since August 1971 have helped curb inflation	24	76
19. Should the Federal Government adopt a no-fault insurance program	73	27
20. Do you believe that adults receiving welfare benefits should be required to work if they are able to do so	98	2
21. What do you consider the most important issue facing the Nation today? Watergate, lack of confidence in Government leaders, inflation, cost of living, energy crises, crime, world peace, and the Middle East situation.		

Mr. DOWNING. I regret to say that we are unable to reach our third witness, Mr. Frank Ikard, president, American Petroleum Institute, and our fourth witness, Mr. Richard Lahn, Washington representative of the Sierra Club.

We will include such statements for the record as the witnesses may desire.

[The statements inserted for inclusion in the printed record follow:]

STATEMENT OF FRANK N. IKARD

My name is Frank N. Ikard. I am President of the American Petroleum Institute, a trade association representing all segments of the industry—from small operators to the largest firms. With me today is Dr. Wilson M. Laird, Director, Division of Exploration Affairs, of the Institute. As always I appreciate the opportunity to come before your Committee to comment on matters related to our industry's operations, expertise and interests.

The proposed amendments to the Coastal Zone Management Act of 1972 now under consideration by your Committee could make federal leasing of offshore acreage for oil and gas development extremely difficult, at the very time that the nation should be bending every effort to develop its full petroleum potential.

In the case of *H.R. 16411*, a permanent moratorium could prevent oil drilling operations seaward of a state marine sanctuary—based solely on the subjective decision by the Governor of a coastal state to withhold approval and refuse to certify "That the permitted activity is consistent with the purposes of this title and with the purposes of the State marine sanctuary."

In the case of H.R. 17517, the Governor of a coastal state could effectively establish a 3-year moratorium—based solely on the subjective decision to withhold approval and refuse to certify "That such activities or development projects are consistent with the coastal State's activities and policies relating to the coastal zone."

Theoretically, the decision (or non-decision) by a Governor of a single state could block development of a major offshore discovery, under the authorities provided by this type of legislation. Accordingly, it is essential to keep in mind that our Outer Continental Shelf petroleum resources and potential resources must be considered as *national* assets, especially in this period of domestic energy shortfalls. The timely development of these resources to help meet the public's energy needs should not—indeed, must not—be circumvented. The federal government was established to consider national needs and to remove from local decisions those matters which affect all of the people of the United States. And I suggest that—in our energy dependent society—decisions governing offshore petroleum operations in federal waters should be solely in the hands of those who represent the national interest.

We have already seen the adverse effects on petroleum operations in the United States of previous moratoriums of one type or another. The delays in the construction of the trans-Alaska pipeline are a case very much in point. In February 1969, a year after oil and natural gas were discovered at Prudhoe Bay, Alaska, the companies involved announced plans to construct a 48-inch diameter, 800-mile long pipeline to carry the oil southward through Alaska for transshipment by tanker to U.S. ports. The cost of the project was estimated to be $900 million.

It took an Act of Congress to resolve the pipeline issue. That Act was passed and signed into law in November 1973—four and a half years after the construction plans were announced. In the interim, construction costs rose to nearly $6 *billion*. And it will still be several years before North Slope oil reaches American consumers and obviously at increased cost. One can only speculate how much better off this nation might have been during last winter's Arab oil embargo had that oil been flowing through a trans-Alaska pipeline at the projected capacity of two million barrels a day.

The pipeline delay, however, is not the only example. The moratorium on drilling and production in the Santa Barbara-Santa Ynez area of California is another. And that moratorium, mandated following the 1969 oil spill there, is still in effect . . . despite scientific studies showing no permanent damage to the environment.

Other challenges and actions have delayed lease sales in the Gulf of Mexico. And the current influx of moratorium legislation—such as those proposed in the bills under consideration—threatens further useless and costly delays. Should these proposals be successful, they could deal a service—perhaps fatal—blow to our national goals of achieving reasonable energy self-sufficiency.

In facing and meeting the needs of the American public for petroleum products, we must be realistic. Our domestic petroleum production has been declining, the result of governmental policies which discouraged exploration, delays in leasing programs, and declining reservoir capabilities. In 1973, alone, the United States produced approximately 80 million barrels less of crude oil and condensate than in 1972.

Moreover, we cannot rely for too many more years on the oil and gas from state lands bordering the Gulf of Mexico. Those resources are finite. A recent statement by Governor Edwin Edwards of Louisiana should be noted in this connection. He said that his State cannot be expected to continue to deplete its limited petroleum resources, while other coastal states sit comfortably by and oppose development off their shores and along their coasts. Louisiana has—the Governor asserts—done more than its share of providing America's petroleum energy. He argues persuasively that it's time that other areas move forward in their petroleum potential, just as it is essential that the federal government proceed with its OCS leasing program.

It does not seem reasonable, under present energy conditions in the United States, to take actions that would inhibit or delay the development of our offshore resources. All the states could suffer increased costs as a result of the actions of one or more coastal state Governors. The petroleum needs of America are far too vital to be determined by decisions at the local level.

We cannot fill the growing gap between domestic production and domestic demand through conservation alone. To attempt to do so could adversely affect our national economy—bringing inevitable unemployment, cutbacks in economic growth and a stifling of new opportunities for the disadvantaged and the young entrants into the business world. Wise use of energy, however, can—and must—play a vital role in lessening demand. Every barrel of oil saved through conservation is a barrel less oil that needs to be imported. Yet, as important as conservation is, it does not add one new barrel of oil nor one cubic foot of natural gas to our dwindling petroleum reserves.

Nor can the expected flow of oil from the North Slope fill all of the gap between domestic supplies and demand, although it will help when it becomes available in significant quantities about three years from now.

The U.S. Geological Survey estimates that the nation's Outer Continental Shelf to the 200-meter depth may contain currently discoverable and recoverable amounts of petroleum of up to 130 billion barrels of crude oil and nearly 800 trillion cubic feet of natural gas. This is not to say that petroleum from new exploration in frontier areas, such as the Atlantic, Pacific and Alaskan OCS, can be the entire answer to all our future energy needs. But development of that huge potential can buy us time . . . time essential for the development of alternate energy sources that will be required in the latter years of this century.

Coal can't buy that time, nor can nuclear or hydroelectric power. There are economic, technological advancements. Indeed, they must be regarded as future sources—not present alternatives.

Even the development of new *petroleum* resources requires time. If exploration were to begin today for such resources in frontier areas offshore, it would still be from 3 to 10 years before any field which might be found could be fully developed. And, frequently, it's a matter of several years before a commercially productible quantity of oil or gas is located.

Nevertheless, since the expanded search for petroleum on our Outer Continental Shelf offers the only viable alternative to increasing our imports—and our dependence on others for energy—we must not delay the search for new offshore oil and gas reserves. It is no longer a question of whether or not we can afford—through moratoriums and other unrealistic measures—to further delay that search. We *must* begin now to find the petroleum we will desperately need just a few years hence.

We appreciate the need for states to be included in any determinations on petroleum operations in the waters off their state. This concern, I believe, is the basis for the proposed amendments. But I submit that, under existing laws and procedures, the states *do* have ample opportunity for input into such decisions.

The current procedures, which have been followed by the Department of the Interior since the enactment of the OCS Lands Act of 1953, are already comprehensive, and usually require a year or more between planning of specific offerings and the actual sale. Public notice is given of the tracts proposed to be offered. And public hearings are conducted on the environmental impact of the proposed sale. Input is invited and considered at these hearings. Any actions taken are subject to Congressional oversight and Congressional changes. Moreover, the National Environmental Protection Act *and* the Coastal Zone Management Act—as passed by the Congress—provide for local input in matters affecting the environment and coastal zone planning.

There is no need to go beyond existing laws and regulations to adequately protect state and local interests. The legislation under consideration would place an arbitrary decision of a coastal state Governor over the national interests as identified by federal decision-making agencies. That is an imbalance that cannot be justified.

Passage of the proposed amendments, with attendant delays of OCS development, could result in increased dependence on high-priced foreign oil from areas of political instability. Delay could adversely affect production of petrochemical and fertilizer. And delay could bring gasoline shortages, heating oil shortages, and even greater unemployment. Our national interest, at this time, will better be served by encouraging accelerated development of our national offshore resources.

Dr. Laird and I will be happy to try to answer any questions you may have regarding this testimony.

[The following material was submitted for inclusion in the printed hearing:]

THE COMMONWEALTH OF MASSACHUSETTS,
DEPARTMENT OF NATURAL RESOURCES.
Boston, December 11, 1974.

Hon. GLENN M. ANDERSON,
U.S. Representative, House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE ANDERSON: Thank you for your letter of December 4 and the enclosed copies of HR 16411 and 17517 which would amend the Coastal Zone Management Act of 1972.

Please be advised that the Department of Natural Resources wholeheartedly supports both of these measures, since they would protect states rights in OCS development and also allow adequate time for coastal zone planning input into OCS development by the several coastal states.

I am sending a copy of this letter of support, for both bills, to Representative Downing for the record.

I would appreciate it if you would keep the Department apprised of the progress on both these bills.

Sincerely yours,

ARTHUR W. BROWNELL, *Commissioner.*

OFFICE OF THE GOVERNOR-ELECT,
Los Angeles, Calif., December 11, 1974.

To Committee on Merchant Marine and Fishreries.

DEAR MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: I strongly support HR 16411 and HR 17517 which amend the Coastal Zone Management Act of 1972. I urge their passage by your committee on the Congress.

The people of California have expressed their desire for a carefully considered program of balanced conservation and development of the state coastal zone. To this end, in 1972, the voters created, by the initiative process, the California Coastal Zone Commission and charged it with developing a coastal zone management plan. The plan is to be submitted to the Governor and Legislature by January 1976. In addition, the commission makes land use decisions through a permit process for coastal areas. Work on the coastal zone management plan is proceeding on schedule with extensive participation from the public, local officials and the regional coastal commissions.

The work of the Coastal Zone Commission is wholly consistent with the purposes of the federal Coastal Zone Management Act which seeks to encourage the coastal states to exercise their full authority over the land and waters of the coastal zone.

The two bills authored by Mr. Anderson to amend the act, HR 16411 and HR 17517, augment this authority by giving to the governor of a coastal state the responsibility of reviewing and certifying the activities of federal licensees as to their consistency with measures adopted, or being considered for adoption, by the states.

HR 16411 requires the federal government to seek state certification of activities of federal government licensees in areas adjacent to coastal waters and tidelands where state marine sanctuaries exist. This process will assure the people of California that the economic and environmental values protected by its sanctuaries will not be disturbed unless the state government and interested federal agencies are in agreement on matters affecting state coastal sanctuaries.

HR 17517 provides that a coastal state governor, during the period in which a coastal zone management plan is being devised or is under consideration by the United States Secretary of Commerce, must certify that projects licensed by the federal government in the coastal zone are consistent with state policies. This amendment provides a mechanism by which a state actively working on a coastal zone management plan can be assured a reasonable time to coordinate the uses of the coastal zone contemplated by the state and federal agencies. This assurance will do much to stimulate the full cooperation of state and federal agencies in the planning and construction of port facilities, pipelines, petroleum storage and refining facilities as well as other economically and environmentally significant projects.

I respectfully urge the Committee on Merchant Marine and Fisheries to give its favorable consideration to these two measures. Additionally, I wish to convey to the committee my desire, as Governor-Elect of California, to support the cooperative spirit of the Coastal Zone Management Act and to develop unified federal-state criteria for the conservation and development of the California coastal zone.

Sincerely,

EDMUND G. BROWN Jr.,
Governor-Elect of California.

CITY OF LOS ANGELES,
OFFICE OF THE MAYOR,
Los Angeles, Calif., December 12, 1974.

Hon. THOMAS N. DOWNING,
Chairman, Subcommittee on Oceanography, Committee on Merchant Marine and Fisheries, Washington, D.C.

DEAR CHAIRMAN DOWNING: Currently, your subcommittee is considering H.R. 16411 to amend the Coastal Zone Management Act of 1972 (PL 92–583). I am writing to you to express my strong support for this legislation calling to you to express my strong support for this legislation calling for certification by Governors of affected states that a proposed Federal oil leasing site is "consistent" with state objectives before the oil leasing activity can be undertaken.

Let me say that we in the City of Los Angeles do not necessarily oppose development of Outer Continental Shelf oil resources. Future needs of our nation may well prove compelling. But we have been greatly alarmed by the precipitous character of current Department of the Interior proposals and leasing schedules, particularly as they threaten to preempt the integrity of our forthcoming California Coastal Zone Conservation Plan.

While it is said that the actual recovery of the oil will not proceed for some years, it is vital that we understand that the eventual outcome, in terms of potential environmental risks, and the impact of extensive development of onshore support facilities, is sealed at the time of signing away title to these publicly-owned resources. This is the key Federal action in the overall process, and it should be thoroughly understood in terms of its long-term implications at the time it is taken. Such a comprehensive understanding must include the review of, and comment upon, the leasing proposals by those who are best situated to weigh their true implications—the State, Regional, and Local governmental entities who bear responsibility for planning and regulating the future uses of our precious, but dwindling, coastal land resources. It would be a travesty of the fate of these resources to be sealed before our California Coastal Zone Conservation Commission has completed its Plan.

This legislation, H.R. 16411, provides an appropriate instrument for balancing potential conflicts between Federal and State programs, which are only now emerging within a rational framework of Coastal Zone Management Plans. These Plans should be the vehicle for exposing ultimate impacts and for achieving solutions to these problems—solutions which are in the interest of all Americans. Again, therefore, I strongly urge you to support H.R. 16411.

Sincerely,

TOM BRADLEY, *Mayor.*

CITY OF LOS ANGELES,
Los Angeles, Calif., July 16, 1974.

RESOLUTION—SUSPENSION OF FURTHER ACTIONS RELATED TO PROPOSED LEASE OF FEDERAL OFF-SHORE LAND

I hereby certify that the attached State, County and Federal Affairs Committee report was adopted by the Los Angeles City Council at its meeting held July 16, 1974.

REX E. LAYTON, *City Clerk.*

To the Council of the city of Los Angeles.

Your State, County and Federal Affairs Committee reports as follows:

Your Committee has considered a resolution (Braude-Stevenson), which would request the Secretary of the Interior to suspend further actions related to the proposed lease of Federal off-shore land until he has met with representatives of the City, other affected local jurisdictions, and interested representatives of the public.

The Department of Interior has announced its intention to lease 1.5 million acres of submerged lands off Southern California for oil exploration and production. Interested parties were to have submitted bids on tracts by March 11, 1974. The Department of Interior has held a briefing session in Los Angeles but has not conducted formal public hearings on the proposed leases.

Your Committee recommends that the subject resolution, as amended, be adopted, as follows:

Whereas, the U.S. Department of Interior has anounced its intention to lease 1.5 million acres of submerged lands off Southern California for oil exploration and production, and

Whereas, the lease is sechduled for May of 1975, and the Bureau of Land Management has already invited the oil industry to indicate interest in specific leases within a 7.7 million acre off-shore area stretching from the Santa Barbara Channel Islands to the Mexican border, and

Whereas, this oil production would occur seaward of one of the most populous coastal areas in the country, used daily by millions for recreation, commerce, and residence, and

Whereas, the Department of Interior has committed itself to proceed with the lease of federal off-shore lands for oil exploration and production without adequate public hearings or consultation with elected officials and concerned citizens: NOW, therefore, be it

Resolved That the City Council of the City of Los Angeles requests the Secretary of the Department of Interior to suspend further actions related to the proposed lease of federal off-shore lands until he has met with representatives of the City of Los Angeles and other affected local jurisdictions, as well as interested representatives of the public.

Be it further resolved, That the City Council of the City of Los Angeles endorses the action of the California Coastal Zone Conservation Commission, which requests the Department of Interior to defer issuing any new leases until the California Coastal Zone Conservation Plan or at least the applicable energy elements of the Plan have been completed, or until the federal government's plans for these lands have been reviewed and approved by the coastal commissions and other appropirate agencies of the state.

Respectfully submitted.

State, County and Federal Affairs Committee.

RESOLUTION OPPOSING THE PROPOSAL OF THE UNITED STATES DEPARTMENT OF INTERIOR TO DRILL NEW OIL WELLS OFF THE COAST OF SOUTHERN CALIFORNIA

Whereas, the United States Department of the Interior has announced a proposal to lease areas on the Outer Continental Shelf in California adjacent to state tidelands for oil and gas development; and

Whereas, the State of California has limited oil drilling from most of the offshore and beach areas adjacent to lands now being considered by the Department of the Interior for development in the federal waters beyond the state's three mile tidelands boundary; and

Whereas, the 1972 California Zone Conservation Act provides for the preparation of long-range plans for the orderly conservation and development of the California coastline, and any move by the Department of the Interior to increase oil development along the coast before the state long-range plans are adopted could seriously compromise state, regional and local planning efforts; and

Whereas, the federal Administration's stated position that states and local communities should be primarily responsible for land use planning is inconsistent with the Department of the Interior's proposal to proceed without a long-range coastal zone plan and a coordinated planning effort; and

Whereas, oil drilling off the coast of California could have a devastating effect on the coastal environment, especially the beaches and harbors, as the Santa Barbara oil blowout demonstrated five years ago; and

Whereas, oil is a finite, irreplaceable resource, and as such this diminishing resource should be reserved to the maximum degree possible for future use pending completion of a national energy policy which could include development of alternate sources of energy and comprehensive programs which will relieve pressure on scarce oil supplies; and

Whereas, the projected time-frame of the Department of the Interior for awarding leases is inadequate to prepare, evaluate, and coordinate the studies necessary for an informed decision; and

Whereas, additional serious questions remain unanswered and must be addressed before leases are awarded; now, therefore, be it

Resolved, *by the General Assembly of the League of California Cities, assembled in Annual Conference in Los Angeles, October 23, 1974,* That the announced plans to lease federal lands to provide new oil drilling in the Outer Continental Shelf off the coast of California be strongly opposed at this time; and be it further

Resolved, as follows:

1. Off-shore oil and gas development, including award of leases for offshore oil and gas development in California, should not proceed until a comprehensive national, as well as regional, energy policy has been promulgated.

2. The Department of the Interior should timely submit its proposed oil development program to the California Coastal Zone Conservation Commission and other appropriate state, regional and local agencies for their review before any new leases are issued.

3. The United States Department of Interior should be urged to hold regional public hearings throughout the state to determine the public attitude with respect to the proposed drilling, and to permit the Federal Administration to address the numerous questions inherent in the oil drilling proposal.

4. No leases shall be awarded until Congress has had adequate time to enact new legislation updating existing laws relating to drilling on the Outer Continental Shelf.

5. Federal oil development activities adjacent to State Marine Sanctuaries should be prohibited, unless an adequately large buffer zone is set aside to prevent drainage of state oil and gas reserves.

6. The State of California should undertake an in-depth analysis and review of the role of the private and public sectors in the development of state and regional off-shore natural resources.

7. Before new offshore oil and gas development is permitted, a comprehensive analysis should be conducted to determine the need for offshore California oil production in light of the anticipated inflow to California of oil and other forms of energy from all other sources, including the Alaskan North Slope oil and gas production.

8. No leases for offshore oil and gas development in California shall be awarded until Congress enacts new legislation requiring regulations for offshore drilling that are at least as stringent relative to environmental considerations as those regulations that are currently in force under California and other coastal states rule.

9. That any new federal regulations shall not preclude California or other coastal states from adopting more stringent regulations for offshore drilling in the future.

10. That any new federal regulations for offshore drilling shall not preempt any state regulations that are more stringent.

STATE OF DELAWARE,
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL,
Dover, Del., December 10, 1974.

Hon. THOMAS DOWNING,
Chairman, Oceanography Subcommittee,
Washington, D.C.

DEAR MR. DOWNING: The Department of Natural Resources and Environmental Control, State of Delaware, supports the following bills amending the Coastal Zone Management Act of 1972 (PL 92-583):

HR 16411 requiring State approval prior to any Federal activity seaward of a State-established marine or estuarine sanctuary.

HR 17517 which provides for Federal-State cooperation in activities which may affect the coastal zone of a state prior to final approval of a State's coastal zone management program.

It would be appreciated if you will enter this in the official hearing record. Thank you for your consideration in this matter.

Sincererly,

JOHN C. BRYSON, *Secretary.*

STATE OF FLORIDA,
OFFICE OF THE GOVERNOR,
Tallahassee, December 11, 1974.

Hon. GLENN M. ANDERSON, M.C.,
Thirty-fifth California District, House Office Building,
Washington, D.C.

DEAR CONGRESSMAN ANDERSON: Thank you for your letter of December 4 and the copies of HR 16411 and HR 17511 which would amend the Coastal Zone Management Act of 1972.

Both of these bills would improve the positions of the coastal states and their governors in dealing cooperatively with the problems, projects, and programs affecting their coastal zones. These bills should help the states develop positive programs of coastal zone management.

Your interest in coastal zone management is most appreciated. With kind regards.

Sincerely,

REUBIN ASKEW, *Governor.*

STATE OF ALABAMA,
GOVERNOR'S OFFICE,
Montgomery, December 20, 1974.

Hon. THOMAS DOWNING,
Chairman, Oceanography Subcommittee,
Washington, D.C.

DEAR MR. DOWNING: The State of Alabama favors the passage of H.R. 17517 which will amend the Coastal Zone Management Act to provide for state review of proposed federal activities in the coastal zone.

We also favor passage of H.R. 16411 with certain revisions which are as follows:

"(b) No permit, license, or other authorization issued by a federal department or agency for activities of any type seaward of a state established marine sanctuary or estuarine sanctuary *or estuarine marshlands or recreational beach areas* shall be valid unless the Governor of the coastal State involved certifies . . . etc."

We favor the inclusion of these other areas because, while we are delineating our areas of critical environmental concern, we may not classify these areas as marine sanctuaries.

Sincerely,

GEORGE C. WALLACE, *Governor.*

STATE OF DELAWARE,
EXECUTIVE DEPARTMENT,
Dover, December 17, 1974.

HON. THOMAS DOWNING,
Chairman, Oceanography Subcommittee,
House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE DOWNING: Representative Glenn Anderson has requested my comments on H.R. 16411 and H.R. 17517 dealing with proposed amendments to the Coastal Zone Management Act which are currently before your subcommittee.

Regarding H.R. 16411, I would like to offer the following comments and questions. I believe the intent of your proposal would be to strengthen a state's role in dealing with oil drilling and other activities having a direct bearing on that state's coastal zone, especially any sanctuaries established therein. I am concerned that your proposal would not deal uniformly with the problem as I understand that the total number of estuarine sanctuaries to be established under PL 92-583 will probably not exceed eighteen, while there are some 34 states and territories participating under the Act. Since all of these jurisdictions may not be able to participate in the estuarine sanctuaries portion of the program, they would be denied the review and approval opportunity given others. This is significant, in my opinion, since the states have as great an interest in the integrity of their other coastal resources, specifically wildlife areas, nature reservations and seashore parks, as they would in areas set aside as an estuarine sanctuary.

I am also concerned about amending the Coastal Zone Act of 1972 (PL 96-583) to include marine sanctuaries without some modification to PL 96-532, the Marine Protection, Research and Sanctuaries Act of 1972, which established the framework for the marine sanctuary program. The Coastal Zone Management Act does not specifically mention marine sanctuaries while the Marine Protection Act provides for federal establishment of such areas with the state role limited to nomination. Hence, I am confused about the language in your proposal which speaks to "state-established marine sanctuary". Does this mean that a state could designate a marine sanctuary by edict, based upon its own criteria, which would then be recognized by the federal government prior to its licensing for oil drilling or other activities seaward of that sanctuary, and therefore subject to state approval? If so, I am certain that your proposal will be welcomed by each of the coastal states.

In regard to H.R. 17517, I understand that this proposal provides for mandatory state review and approval of any federal actions affecting a state's coastal zone during the period of Coastal Zone Management Program development by that state. I wholeheartedly support this amendment. It seems grossly inconsistent and wasteful for states to be preparing management plans under the provisions of the Coastal Zone Management Act of 1972, as administered by the U.S. Department of Commerce, while the U.S. Department of the Interior pursues its Outer Continental Shelf program with complete disregard for the state efforts to properly plan for and manage their coastal resources.

I urge the Congress to use its authority to correct this inconsistency and provide for a proper state-federal working relationship in coastal zone affairs, including the development of oil and gas resources on the Outer Continental Shelf which is the most critical coastal zone issue facing our state.

Sincerely,

SHERMAN W. TRIBBITT, *Governor.*

STATE OF CALIFORNIA,
DEPARTMENT OF FISH AND GAME,
Sacramento, Calif., December 24, 1974.

HON. THOMAS DOWNING,
Chairman, Oceanography Subcommittee,
1334 Longworth Building, Washington, D.C.

We have received, Congressman Downing—copies of H.R. 16411 and H.R. 17517 from Congressman Anderson with an invitation to submit comments to you as part of the hearing records.

H.R. 16411 does not define a marine or estuarine sanctuary, and if California's numerous designated reserves and refuges qualify the Governor would, accord-

ing to the bill, have to take action on a great many offshore oil drilling operations. This appears to be additional restraints on oil drilling which should be unnecessary if present Environmental Impact Statements, public hearings, and required procedures are followed.

Also, it appears that H.R. 16411 has the potential of encouraging coastal residents to push for establishment of marine sanctuaries in order to prevent offshore oil well drilling. Local interests are often irritated by oil well drilling operations and might very well overwhelm us with requests for establishment of marine sanctuaries. We woud like to avoid this possibility. If the sanctuaries were established they would then have possible adverse effects upon fishing activities as certain sport and commercial fishing activities might be curtailed. This could include, as an example, abalone, lobster, anchovy, or many other species, depending on the definition of a marine sanctuary.

I have no comments to make concerning H.R. 17517.

Thank you for the opportunity to comment on these bills.

Sincerely,

G. RAY ARNETT, *Director.*

STATE OF WASHINGTON,
DEPARTMENT OF NATURAL RESOURCES,
Olympia, December 24, 1974.

Hon. THOMAS DOWNING,
Chairman, Oceanography Subcommittee,
Washington, D.C.

DEAR REPRESENTATIVE DOWNING: Representative Glenn Anderson has called to my attention the Oceanography Subcommittee hearings on HR 16411 and HR 17517.

The requirement of State approval for development of Federal Resources on Federal offshore land could be used to prevent development of such resources which are critically needed to meet national needs. On the other hand, states should not be forced to suffer unmitigated damages to state and private resources in order that national needs be met.

I would prefer to see Federal Agencies responsible for development of Federal offshore resources directed to communicate and cooperate with adjacent states which should have the prerogative of reviewing and suggesting protective measures. The Federal Government should be absolutely liable for any damage to state or private resources resulting from omission of state-suggested protective measures, if those measures would have prevented the damage.

Such a proposal would provide adequate protection to concerned states without withdrawal through veto of Federal administrative prerogatives.

Very truly yours,

BERT L. COLE,
Commissioner of Public Lands.

THE CITY OF SANTA BARBARA, CALIF.,
December 20, 1974.

Hon. THOMAS DOWNING,
Chairman, Oceanography Subcommittee,
Washington, D.C.

DEAR CONGRESSMAN DOWNING: Congressman Glenn M. Anderson, a member of the Oceanography Subcommittee, has provided the City of Santa Barbara with a copy of HR 16411 asking for our comments. The following represents the comments from our City:

The word "seaward" should be defined in more precise terms. In the City of Santa Barbara, we have the "Goleta Slough" enclosed within our overall airport property. The manner in which "seaward" is defined would be very important to the practical effect of the decisions made for the location of oil wells.

HR 17517 provides for state approval pending completion of the Coastal Zone Management Plan with respect to similar activities. Members of our environmental review staff feel that HR 17517 would be preferable to HR 16411 if meaningful state participation on off-shore oil drilling is the primary objective.

We appreciate this opportunity to submit our comments on this important legislation. We urge your careful consideration.

Cordially,

DAVID T. SHIFFMAN, *Mayor.*

STATE OF FLORIDA,
DEPARTMENT OF NATURAL RESOURCES,
Tallahassee, December 16, 1974.

HON. THOMAS DOWNING,
Chairman, Oceanography Subcommittee,
Washington, D.C.

DEAR REPRESENTATIVE DOWNING: Thank you for your letter of December 4, 1974 requesting comment on HR 16411 and HR 17517 amending the Coastal Zone Management Act of 1972 (PL 92-583).

The Florida Department of Natural Resources would like to go on record as supporting both of these amendments. We feel that it is vital that coastal states have some part in the decision-making concerning offshore oil drilling and other offshore activities.

The one question that we would raise is in regard to the terminology in HR 16411. In speaking of a "State established marine sanctuary or an estuarine sanctuary", do you mean only those sanctuaries established under the Coastal Zone Management Act or the Ocean Dumping Act? Florida has a system of aquatic areas and wilderness system legislation which provides protection to many of the waters along our coastline. Would these areas fall under the definition of a "State established marine or estuarine sanctuary"? We certainly feel that they should.

Other than this question, we feel that the proposed amendments should be approved by Congress.

If we can be of any further assistance, please let me know.

Sincerely,

HARMON W. SHIELDS,
Executive Director.

[Whereupon, at 12:10 p.m., the subcommittee recessed, to reconvene at 10 a.m., Tuesday, December 17, 1974.]