

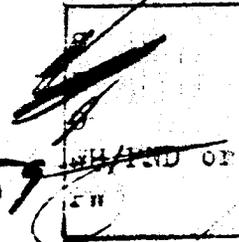
O/ADP/DA  
FILES  
Attention

THE SECRETARY OF STATE  
WASHINGTON

XR-7607064  
XR-7607277

Keep this study together.

April 6, 1976



P760050-1557

COPIES TO:

S  
E  
T  
S/S-S (TA)  
S/P  
ARA  
EA  
EUR  
EB  
I  
ES  
/LOS  
F/hjb

MEMORANDUM FOR: THE PRESIDENT

From: Henry A. Kissinger *HK*

Subject: H.R. 200 -- Extension of U.S.  
Fisheries Jurisdiction to 200  
Miles

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

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

*[Redacted]*  
GDS

MICROFILMED  
BY S/SI

~~CONFIDENTIAL~~  
- 2 -

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

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

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

~~CONFIDENTIAL~~

[REDACTED]

- 3 -

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

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

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

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

[REDACTED]

~~CONFIDENTIAL~~

- 4 -

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

Attachment:

Veto statement.

~~CONFIDENTIAL~~