Testimony of Congressman Les AuCoin
Before the Subcommittee on Fisheries and
Wildlife Conservation
House Merchant Marine and Fisheries Committee
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Mr. Chairman:

Before we begin I want to take this opportunity to compliment you for holding hearings on H.R. 2564, and identical measures, to regulate foreign investment in the U.S. fishing industry. I think it demonstrates again your commitment to the success of the new 200 mile law and American fishermen who have come to see this law as the key to their future.

Mr. Chairman, when Congress enacted the 200 mile law, it declared that henceforth this country would have a "national program for the development of the fisheries ... to assure that our citizens benefit from the employment, food supply and revenue which could be generated thereby."

To this end, we placed strong restrictions on foreign fishing fleets that for years had ravaged our fisheries and threatened the viability of one of this country's oldest and proudest industries -- the U.S. fishing industry.

We set forth two rules.

First, we said that foreign nations would be allocated only those fish which U.S. citizens could not harvest.

Second, that they would pay for the privilege of taking these fish.

Now we find that the opportunities we thought we had reserved for Americans might ultimately prove to be an illusion. That's because there is nothing -- I repeat nothing -- to prevent foreign nations from buying or creating U.S. corporations and through them roaming at will throughout our 200 mile zone, with all the rights of U.S. citizens. Hearings held in 1974 and again at my request in 1976 made clear that while U.S. citizen ownership requirements do apply to ventures operated by individuals and partnerships, they do not apply at all to corporations -- an open invitation to foreign states to invade our 200 mile zone.

The potential impact of this loophole on America's new 200 mile law has captured the interest of several respected national publications in recent months.

The Wall Street Journal wrote on April 20 that "Foreign governments are vaulting into the new U.S. fisheries zone by quietly placing heavy investment in the American fishing industry." In a few cases, it reported, "the foreign effort to keep control of fishing grounds theoretically denied to them by Congress approaches panic buying."

Business Week magazine wrote three weeks later that "the Japanese and Koreans, worried that the 200 mile limit... will sharply reduce the fishing catch,... are trying everything from diplomatic negotiations to corporate takeovers to soften the blows."

Mr. Chairman, I want to make clear that I do not find foreign investment objectionable in and of itself. But I do think when such investment is used as a device to sidestep a U.S. law designed to govern U.S. resources, then we have an obligation to prevent that effect.

That's what these hearings are for today. We are here to discuss whether -- in light of our new 200 mile law -- foreign investment in the U.S. fishing industry should be regulated and if so, how.

H.R. 2564, introduced by Congressman Studds and myself with 40 cosponsors on January 27, provides that any U.S. fishing vessel which is in 25 per cent or more foreign ownership shall be considered foreign for the purpose of the 200 mile law. This would subject those vessels to the same foreign quotas and permit requirements which Congress intended should be applied to all foreign vessels. The bill would also mandate a study of foreign investment in all other phases of the U.S. fishing industry.

It should be noted, Mr. Chairman, that since this measure was introduced, new questions have been raised about foreign involvement in our fishing industry. Foremost among those concern certain arrangements whereby foreign processing vessels stationed within the 200 mile zone take fish from U.S. harvesters. How, for example, in such instances should such fish be treated under the quota system established by the law and what affect will this new competition have on U.S. fish processors?

These are valid issues and ones which this legislation conceivably also ought to address. I look forward to exploring that as well today, and based on what we learn, I may reintroduce legislation covering that matter as well. But fundamentally we must not lose sight of the urgency to establish a national policy with respect to foreign ownership of U.S. fishing vessels that fish within our 200 mile zone.

Now, Mr. Chairman, it may be said today that this bill is contrary to a national policy of encouraging foreign investment. To this I would simply point out that it is also a national policy to restrict foreign investment in areas deemed to be of essential national interest. Such areas today include atomic energy, communications, air transportation, development of

federally-owned lands and mineral resources, and shipping. I believe, and I think Congress believes, as evidenced by the enactment of the 200 mile law, that fishing deserves to rank along with these as vital to our national well-being.

Certainly this was the view of the Second Congress when it passed the Nicholson Act in 1793 (February 18). This law, reserved to U.S. citizens all fishing rights within three miles of the United States. Unfortunately, corporations were not a common way of doing business in the 18th Century and hence they were not covered in the definition of the U.S. citizen.

Early drafts of what is now the 200 mile law also acknowledged the link between U.S. ownership and the goals of the 200 mile limit by containing provisions which limit foreign investment in U.S. vessels to 25 per cent.

Some may also say that any action reserving the U.S. fisheries to U.S. citizens will trigger reciprocal action by other nations. Testimony presented in 1974, however, indicates that at least nine countries already prohibit foreign nations from having a controlling interest in their fishing companies. They are: Mexico; Denmark; Spain; Finland; China; Peru; the Philippines; Thailand; and the U.S.S.R. Another eight review such investment to make certain it's in their national interest. Were the U.S. to impose similar requirements, it would simply be joining a group of nations which have already recognized the value of their fishing resources by seeing that they remain in the hands of their own citizens.

Mr. Chairman, another myth about this bill is that it may snuff out a ready source of investment capital at a time when the U.S. industry is in desperate need of such funds. While I hope some of the witnesses will speak to this issue, my own experience has been that when the opportunity is there, when a known resource is secure, the venture capital will follow.

Two days before the 200 mile law took effect, The Washington Post quoted an exuberant Massachusetts fisherman as saying "the gold rush mentality has hit. New boats are being built. New money and new people are going into fishing." His enthusiasm was echoed by fishermen across the country.

Moreover, private capital does not have to carry the burden alone. From the beginning, the 200 mile law was seen as the first step in a comprehensive effort to revitalize the U.S. fishing industry. Under your leadership, Mr. Chairman, this committee has committed itself to providing increased financial and other assistance to U.S. fishermen. Legislation to this effect has, in fact, already been introduced in both Houses of Congress.

And I would say to my committee colleagues that the central question before us is whether the 200 mile law will accomplish what we have claimed it will accomplish. Among these things is the granting of priority fishing rights to U.S. citizens. If this is not achieved the way the law is currently written, then the law must be amended. Or we should stop pretending that this is our goal.

Sorting this out may not be easy.

But our dedication to the task will be a signal to fishermen across the country that our commitment to the law is as firm today as it was in the beginning.

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