

THE ROLE OF INTERNATIONAL AGREEMENTS IN ALASKAN FISHERIES

By Ronald C. Naab*

Foreign fleets fishing in international waters off Alaska are capable of depleting the resources supporting Alaska's largely inshore fisheries. Recognizing this threat, the United States has increasingly utilized international fisheries agreements, particularly during the last few years, to provide safeguards essential to the U. S. fisheries off Alaska. Policing these agreements by joint Coast Guard-Bureau of Commercial Fisheries patrols has been stepped up to keep pace with the increased enforcement responsibilities and growing foreign fishing efforts. As nations of the world increase their harvests of protein from the seas, international agreements will become more important in protecting U. S. interests in the vast fishery resources of the Alaskan area.

Marine resources supporting Alaska's foremost sustaining industry, commercial fisheries, are highly vulnerable to depletion by fleets operating in international waters adjacent to Alaska's shores. The species traditionally most important to Alaska--salmon, halibut, king crab, and fur seal--spend a major part of their lives in waters of the high seas beyond U. S. jurisdiction. While in these offshore areas, these migratory animals, in the absence of international safeguards, could be intercepted by fishermen of any nation before reaching Alaska's largely inshore fisheries.

The same threat hangs over the underutilized fishery stocks that offer the greatest potential for development by the U. S. fishing industry. These include species already becoming more important to Alaska's fisheries--tanner crab, shrimp, and scallops--as well as stocks likely to be developed in the future: pollock, ocean perch, flounders, and sablefish.

The U. S. has long recognized this danger to Alaskan fisheries and has increasingly sought to provide protection by international agreements. The urgent need for such protective agreements was accelerated greatly by the alarming growth of Japanese and Soviet fisheries off Alaska during the past decade

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(figs. 1 and 2). Since 1964, the number of such agreements and associated U. S. laws has nearly trebled, climbing from 4 to 11. Through these agreements, harvesting by foreign fishermen of species essential to the Alaskan fisheries either has been controlled or prohibited. The gravity of this situation is evidenced by 1966 statistics. These show the species protected by such agreements provided 96 percent of the value of Alaska's commercial fisheries manufactured products which had a total wholesale value of over \$200 million.

DEVELOPMENT OF AGREEMENTS

The pattern of increased protection afforded the U. S. fisheries can be pictured by tracing the development of international agreements and associated laws affecting the Alaskan area.

North Pacific Fur Seal Convention

This was the first, and is perhaps the best known, international fishery convention that followed a serious decline or depletion of fishery resources of concern to several nations. It is a notable example of how nations, faced with a mutual conservation problem, worked together to restore and maintain a resource so that it provided a sustainable annual yield.

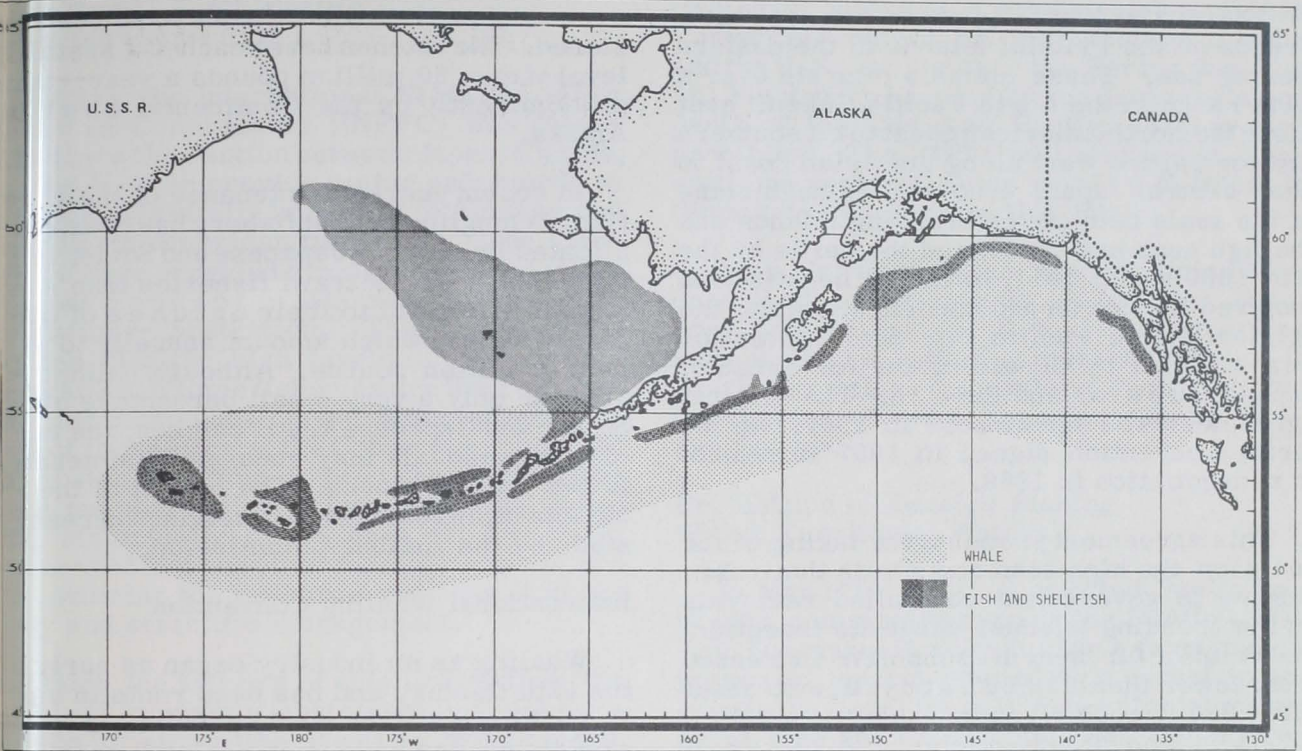


Fig. 1 - Japanese fishing areas off Alaska. (Excluding high seas salmon fishing areas.)

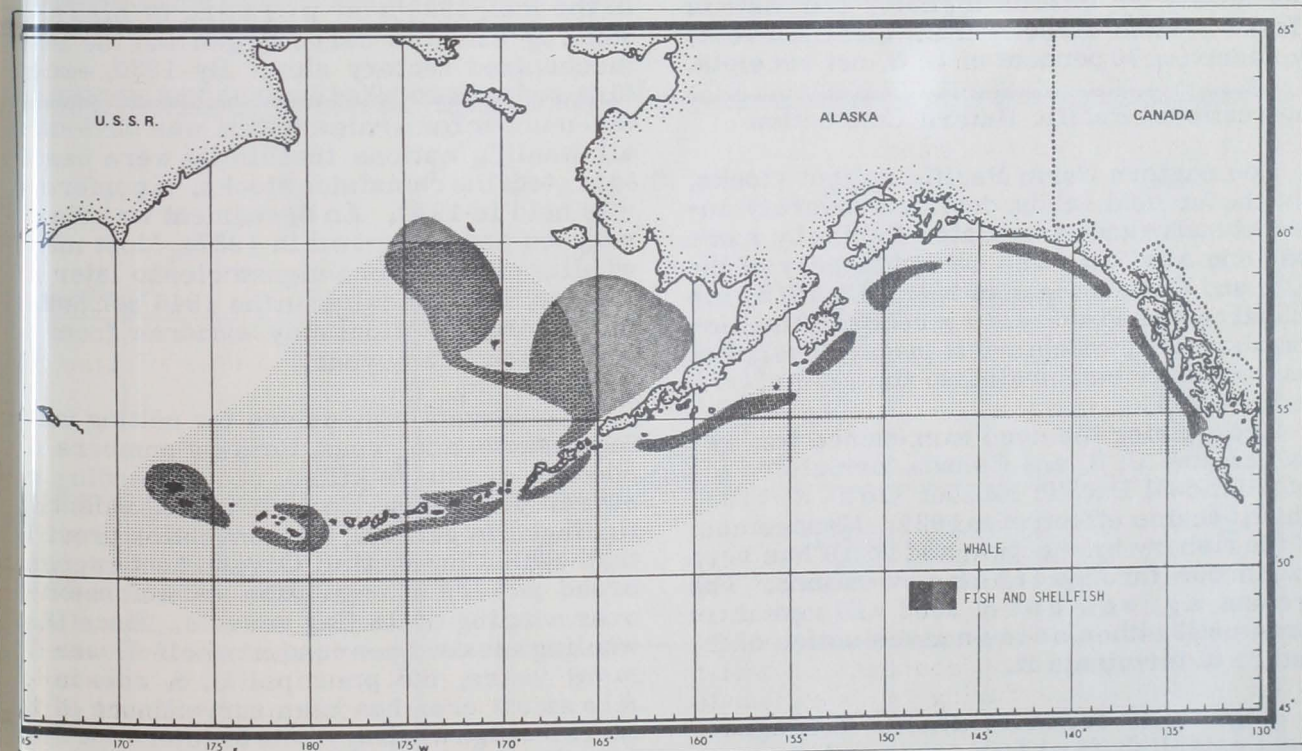


Fig. 2 - Soviet fishing areas off Alaska.

The main North Pacific fur seal herd breeds on the Pribilof Islands in the eastern Bering Sea. These animals migrate over a wide range in the North Pacific Ocean: east along the North American coast to off southern California, and west along the Asian coast to near central Japan. Wholesale slaughtering of the seals both on the breeding islands and the high seas had decimated the herds by the late 1800's. In 1911, following negotiations inspired by concerned conservationists, the original North Pacific Fur Seal Convention was signed by Great Britain (for Canada), Japan, Russia, and the U. S. The original agreement was terminated in 1941. An Interim Convention signed in 1957 is subject to renegotiation in 1969.

This agreement prohibits the taking of fur seals on the high seas and limits their harvesting to government-controlled removals on the breeding islands. Since its inception, the Pribilof fur seal herds have increased from fewer than 150,000 animals to about 1,750,000 in recent years.

During 1960-67, the average yearly harvest from the Pribilofs was 65,800 seals. The U. S. share of the proceeds from these pelts was nearly \$3 million a year. The State of Alaska profits directly from these harvests by receiving 70 percent of U. S. net receipts.

International Pacific Halibut Convention

The eastern North Pacific halibut stocks, like the fur seal herds, declined severely under intensive and unregulated fishing by more than one nation. The halibut fishery of the U. S. and Canada began in 1888. By 1915, the annual catch had soared to a record 69 million pounds. Then catches fell precipitously and remained low until well into the 1930's.

Recognizing the need to preserve this resource, the U. S. and Canada formulated the International Pacific Halibut Convention, which became effective in 1924. Management of the fishery by the two nations has been continuous through later conventions. The present agreement of 1953 will remain in force until either nation gives notice of its desire to terminate it.

Regulations formulated under this agreement establish fishing areas and seasons, catch quotas, legal types of fishing gear, and minimum sizes of fish that can be taken. Under the careful management of the two-nation

commission, the halibut stocks have been restored. The catches have reached a sustained level of over 60 million pounds a year--taken predominantly on the Continental Shelf of Alaska.

In recent years, maintenance of the U. S. and Canada longline halibut fishery has been complicated by growing Japanese and Soviet trawl fisheries. These trawl fisheries take some halibut incidental to their catches of other groundfishes, which amount annually to well over a billion pounds. Although halibut represent only a very small percentage of the Soviet and Japanese trawl catches, the cumulative removals may endanger maintenance of the halibut stocks. The impact of the incidental trawl catches is receiving increasing study by the Halibut Commission.

International Whaling Convention

Whaling as an industry began as early as the 12th Century and has deep roots in early U. S. history. The whale populations of the world's oceans have been depleted progressively--first those of the Northern hemisphere and, more recently, the southern seas. The declines were hastened by development in the mid-1920's of pelagic or high-sea whaling with the harpoon gun and the large mechanized factory ship. By 1930, excessive and unrestricted catches had so reduced the number of whales that it was obvious to all whaling nations that limits were needed to protect the remaining stocks. A conference was held in 1930. An agreement was finally reached and adopted in 1937. Most major whaling nations were signatories to later revisions, which resulted in the 1946 convention now in force. Nations may withdraw from the convention in any year.

The convention provides for setting whaling seasons and areas, limiting numbers and species of whales killed, recommending research programs, and reviewing scientific findings. In general, the convention provides that each Contracting Government exercise broad powers of regulation and enforcement over whaling by its flag vessels. Since U. S. whaling has not been conducted off Alaska for many years, the principal U. S. role in the Alaskan area has been surveillance of the large foreign whaling fleets to determine their compliance with the international regulations.

International North Pacific Fisheries Convention

In 1953, the International North Pacific Fisheries Commission (INPFC) was established by a Convention between Japan, Canada, and the U. S. to provide major safeguards to the species vitally important to Alaskan and other North American fishermen. The safeguards were provided through the introduction of a new concept in international fisheries regulation--"abstention." This concept recognizes that the high levels of productivity maintained in some fisheries are the result of local and continuous conservation efforts. In view of these efforts, the Convention provides for abstention from fishing these stocks by some member nations where it can be shown that, historically, these have not fished the stock--and that the other member nations are fully utilizing the resource and have it under orderly and scientific management.

Under the terms of this Convention, the Japanese currently abstain from fishing for salmon in either the Bering Sea or North Pacific Ocean east of the "abstention line" of 175° W. (intersects the central Aleutians), and the Canadians abstain from fishing salmon in the Bering Sea east of the same line. Further, the Japanese also refrain from

fishing for halibut of North American origin in Convention waters off the coasts of Canada and the U. S., exclusive of the Bering Sea (fig. 3). Fishing for herring by the Japanese along parts of the Canadian Pacific coast is also prohibited. The INPFC will continue in force until one year following notice of intent to terminate by a Contracting Party.

This Convention has been criticized and described sometimes as inadequate. But it does protect nearly all the North American salmon stocks, including most major runs in Alaska, as well as the eastern Pacific halibut populations of great importance to the U. S. and Canada.

Prohibition of Foreign Fishing Within Territorial Waters

In May 1964, the U. S. enacted Public Law 88-308, commonly known as the Bartlett Bill. This law makes it unlawful for a foreign fishing vessel, or a master of such vessel, to engage in the fisheries in U. S. territorial waters or to take any Continental Shelf fishery resource that belongs to the U. S., except as provided by the Act or by an international agreement to which the U. S. is party. The Act establishes penalties, provides for seizure and forfeiture of a vessel or its catch or

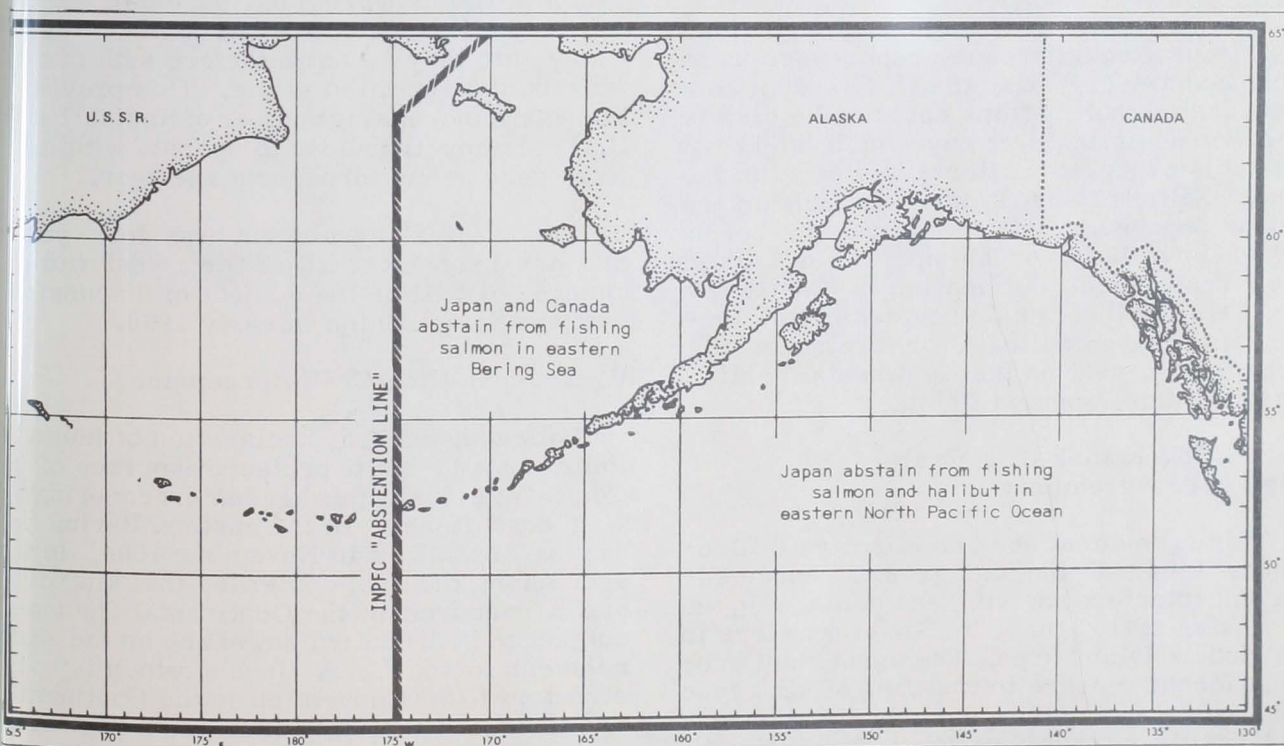


Fig. 3 - "Abstention" areas established by the INPFC.

gear, and delegates enforcement responsibility and enforcement powers. It was enacted following increasing entries by foreign fishing vessels into the territorial waters off Alaska. It had become evident that existing laws were inadequate to make abundantly clear that foreign vessels are denied the privilege of fishing within U. S. territorial waters and, further, that there were no effective sanctions to punish violators.

This Act defines "fisheries" as the "taking, planting, or cultivation of fish, mollusks, crustaceans, or other forms of marine animal or plant life." Enactment of Public Law 90-427 in July 1968 broadened the definition of fisheries to include support operations.

This law provides the legal framework for the U. S. to designate fishery resources of the Continental Shelf and, thereby, to regulate their harvest by foreign nations. The Continental Shelf fishery resource is defined as including "living organisms belonging to sedentary species; that is to say, organisms which, at the harvestable stage either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil." This language conforms to that in the United Nations Convention on the Continental Shelf, which became effective in June 1964.

The designation of a Continental Shelf fishery resource could produce repercussions in other countries. Citing the U. S. action as a precedent, other nations could make claims to species off their shores which might not meet the precise criteria laid down in the United Nations Convention. Nonetheless, the U. S. is proceeding with the preparation of an initial list of living organisms that qualify as Shelf resources. Publication of this list in the "Federal Register," provided by the 1964 Act, will make it illegal for foreign fishing vessels to harvest on the Continental Shelf of the U. S. those species listed.

U. S. -USSR Kodiak King Crab Gear Area Agreement

This agreement became effective in December 1964. It was designed to reduce recurring interference with, and damage to, the U. S. king crab fishery by Soviet trawlers in the Kodiak Island area. The agreement provides for the closure to trawling of six areas off Kodiak Island during periods when concentrations of king crab pots occur there (fig. 4).

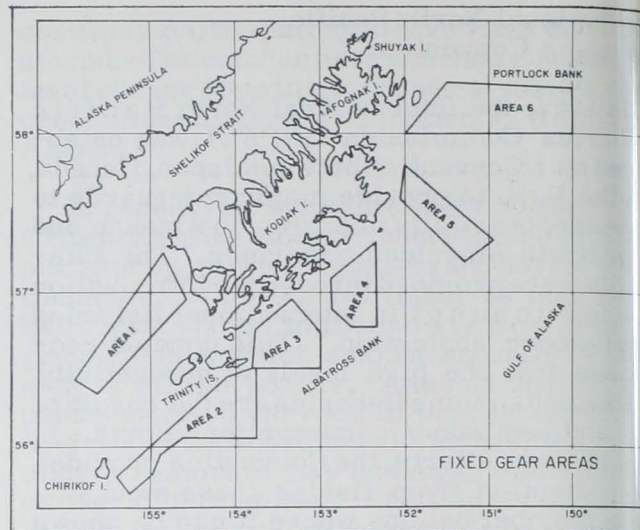


Fig. 4 - Fixed fishing gear areas established by 1964 U. S. -USSR agreement.

These areas were established in accordance with the past pattern of the U. S. king crab fishery off Kodiak Island. The areas extend well beyond the 12-mile fishery limit of the U. S. and have provided a high degree of protection for U. S. fishing gear. Since this agreement became effective, conflicts in the Kodiak area have been greatly reduced. There have been no documented Soviet violations.

The agreement provided that small shrimp trawlers will be permitted to operate in such a way that they do not interfere with fixed gear in the specified areas. This provision allows the increasing number of Kodiak-based U. S. shrimp trawlers to operate within the fixed gear areas throughout the year.

The original agreement was for 3 years and has been extended for 1 year without change. It will be the subject of discussion with the Soviet Union in early 1969.

U. S. -Japan King Crab Agreement

Following the U. S. declaration of intent in Public Law 88-308 to protect resources of the Continental Shelf, this agreement covering the king crab fishery in the eastern Bering Sea was negotiated in November 1964. In the agreement, the U. S. contended that king crabs are a resource of the Continental Shelf and subject to U. S. control anywhere on the shelf adjacent to the U. S. Japan, which is not a signatory to the Convention on the Continental Shelf, argued that king crabs are a high-sea resource. The agreement was concluded

without prejudice to the positions of both Parties, but Japan agreed to certain restrictions on its longstanding crab fishery in the Bering Sea.

Major features of this agreement, which protected the rapidly growing U. S. king crab fishery and safeguarded the king crab resource, included: (1) limiting Japanese catches to an annual quota; (2) providing an area north of Unimak Island where pots only may be used for king crab fishing (other types of gear may be fished for other species in the area); and (3) restricting Japanese fishing gear and methods such as minimum mesh size of tangle nets, use only of pots or tangle nets, minimum size of crabs taken, and retention only of male crab. It also permitted continuation of the longstanding Japanese king crab fishery in the eastern Bering Sea--essentially on the Continental Shelf of outer Bristol Bay.

These provisions allowed the U.S. fishermen to continue expanding their king crab fishery in the Gulf of Alaska and along the Aleutian Islands without competition from Japanese crab fleets; also the agreement enabled the expansion of the U. S. crab fishery

into an area of the eastern Bering Sea without interference by Japanese tangle nets (fig. 5).

The agreement of November 1964 was for a 2-year period and established an annual quota for the Japanese during 1965 and 1966 of 185,000 twenty-four-pound cases. The agreement was extended for 2 years in November 1966 with a provision reducing the annual Japanese catch quotas in 1967 and 1968 to 163,000 twenty-four-pound cases.

U. S.-USSR KING CRAB AGREEMENT

Following the agreement with Japan, a similar one was reached with the Soviets in February 1965. Its provisions were basically identical, with the exception that the Soviets' annual catch quota was less than the Japanese. The exception was based primarily on the Soviets' smaller catches and shorter history of king-crab fishing in the eastern Bering Sea. The Soviets recognized the U. S. position that king crab were a resource of the Continental Shelf over which the coastal state has sovereign rights.

This 2-year agreement protected the growing Alaska king-crab fishery and permitted

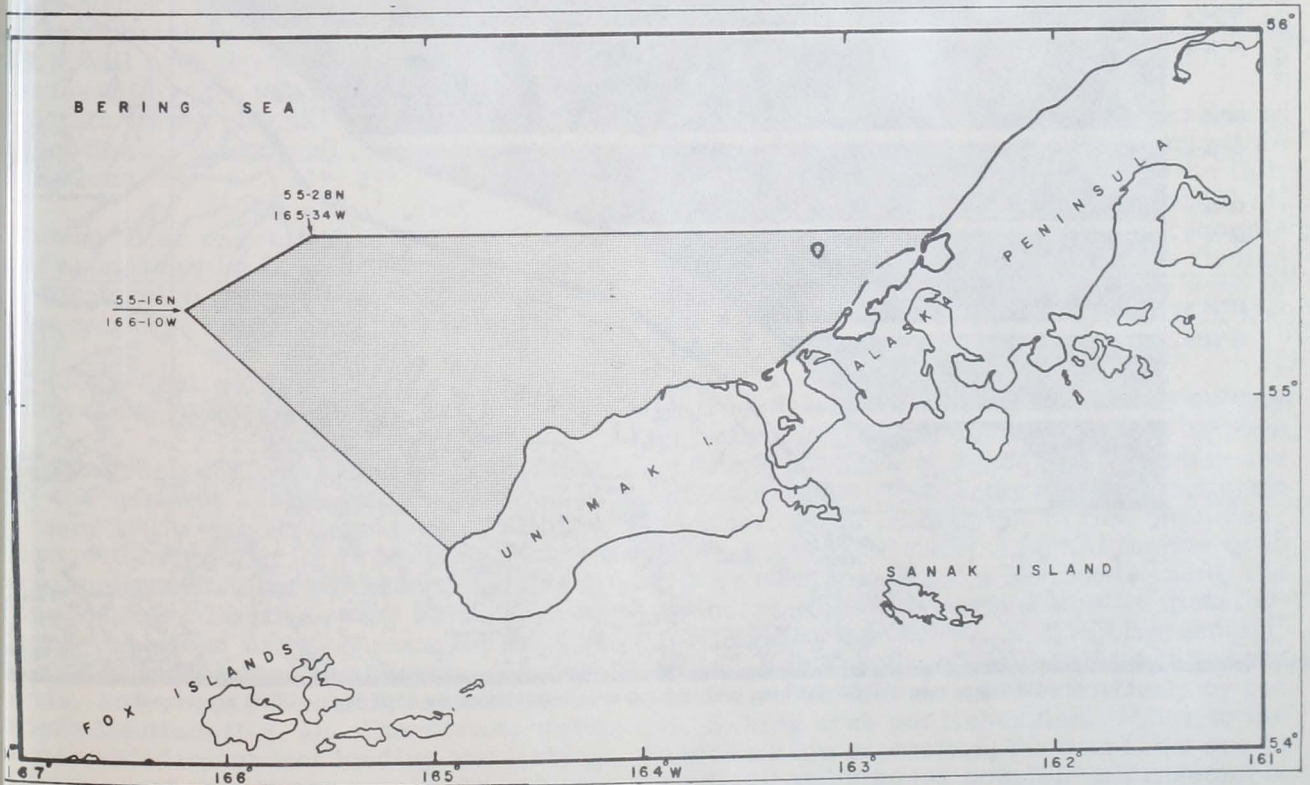


Fig. 5 - Pot fishing zone established by U. S.-Japan and U. S.-USSR king crab agreements.



Fig. 6 - 1968 Japanese and Soviet king crab fishing areas established by 1967 Japan-USSR agreement.

Soviet king-crab fishery off Alaska to continue only in the eastern Bering Sea. The agreement provided that in 1965 and in 1966 the Soviets could take 118,600 twenty-four-pound cases. This agreement was extended for 2 years in February 1967, with the provision that the annual pack in 1967 and 1968 would not exceed 100,000 twenty-four-pound cases.

One innovation resulting from renegotiation of this and the Japan king-crab agreements was the division of the fishing area between the Soviets and Japanese (fig. 6). The agreement between the two established specific fishing zones for each country to prevent border conflicts. More important for the U. S., the agreement would prevent wasteful fishing methods by the two countries. In the past, Soviet and Japanese fishermen competed for better fishing areas and reserved selected regions by preoccupying them with excessive amounts of gear. Such practices resulted in excessive mortality of king crabs.

Regulation of Foreign Fishing within the Contiguous Fishery Zone

Public Law 89-658, enacted by Congress in October 1966, established a 9-mile contiguous fishery zone adjacent to the U. S. 3-mile territorial sea. The law provides that the U. S. will have the same jurisdiction over fisheries within this newly created zone as it has within its territorial sea, subject to the continuation of "traditional" fisheries by foreign nations.

Shortly after enactment of the contiguous fishery zone law, the U. S. began negotiations with the foreign nations whose fisheries off Alaska might be considered "traditional."

U. S.-USSR Contiguous Fishery Zone Agreement

This agreement was the first resulting from the negotiations and was concluded in February 1967. The Soviets were permitted to fish within the 9-mile (3 to 12 miles offshore) contiguous fishery zone in three areas off the Alaskan coast little used by U. S. fishermen. The areas include one in the Gulf of Alaska, a second along the eastern Aleutian Islands, and a third encompassing the far western Aleutians (fig. 7). The Soviets were also permitted to conduct loading and fishing vessel support operations within the contiguous fishery zone in three small areas in the

Gulf of Alaska: (1) off Forrester Island, (2) off Kayak Island, and (3) off Sanak Island.

To reduce interference with U. S. halibut fishermen by Soviet trawlers, the Soviets agreed to refrain from fishing in international waters in two large zones in the Gulf of Alaska during the first 15 days of the halibut fishing season. The agreement also contains provisions protecting U. S. fisheries off Washington and Oregon. This 1-year agreement was extended for a second year at negotiations in late 1967.

U. S.-Japan Contiguous Fishery Zone Agreement

In May 1967, the U. S. and Japan negotiated a 2-year agreement permitting the Japanese to continue crab fishing in the 3- to 12-mile zone off the Pribilof Islands, trawl fishing along the Aleutian Islands except during specified periods in zones in the eastern and central Aleutians, and whaling along Alaska's coast except in a portion of the Gulf of Alaska (fig. 8). The Japanese were permitted to conduct salmon fishing operations in the contiguous zone off the Aleutian Islands west of long. 175° W. (provisional line specified in the International North Pacific Fisheries Convention). They agreed to conduct their salmon operations with due regard to the conditions of the runs of salmon of Alaskan origin.

Japan was also granted authorization to conduct loading and support operations within the contiguous zone in two areas in the Gulf of Alaska: (1) off Kayak Island, and (2) off Sanak Island. Except for Alaska, no recognition was given to continued Japanese fishing inside the U. S. 3- to 12-mile fishery zone of the contiguous 48 States of the U. S. and Hawaii.

The agreement also provided that Japan refrain from fishing during the first 15 days of the U. S. halibut season in the two zones off Kodiak described in the Soviet agreement. Further, Japan agreed not to fish from September through February in: (1) the six crab pot zones surrounding Kodiak Island, the boundaries of which are identical to those established by the 1964 U. S.-USSR agreement, and (2) a zone south of Unimak Island and the eastern Fox Islands used extensively by the U. S. king crab pot fishermen. Prior to the agreement's expiration, the parties are to review it and discuss possible arrangements for continued Japanese fishing.

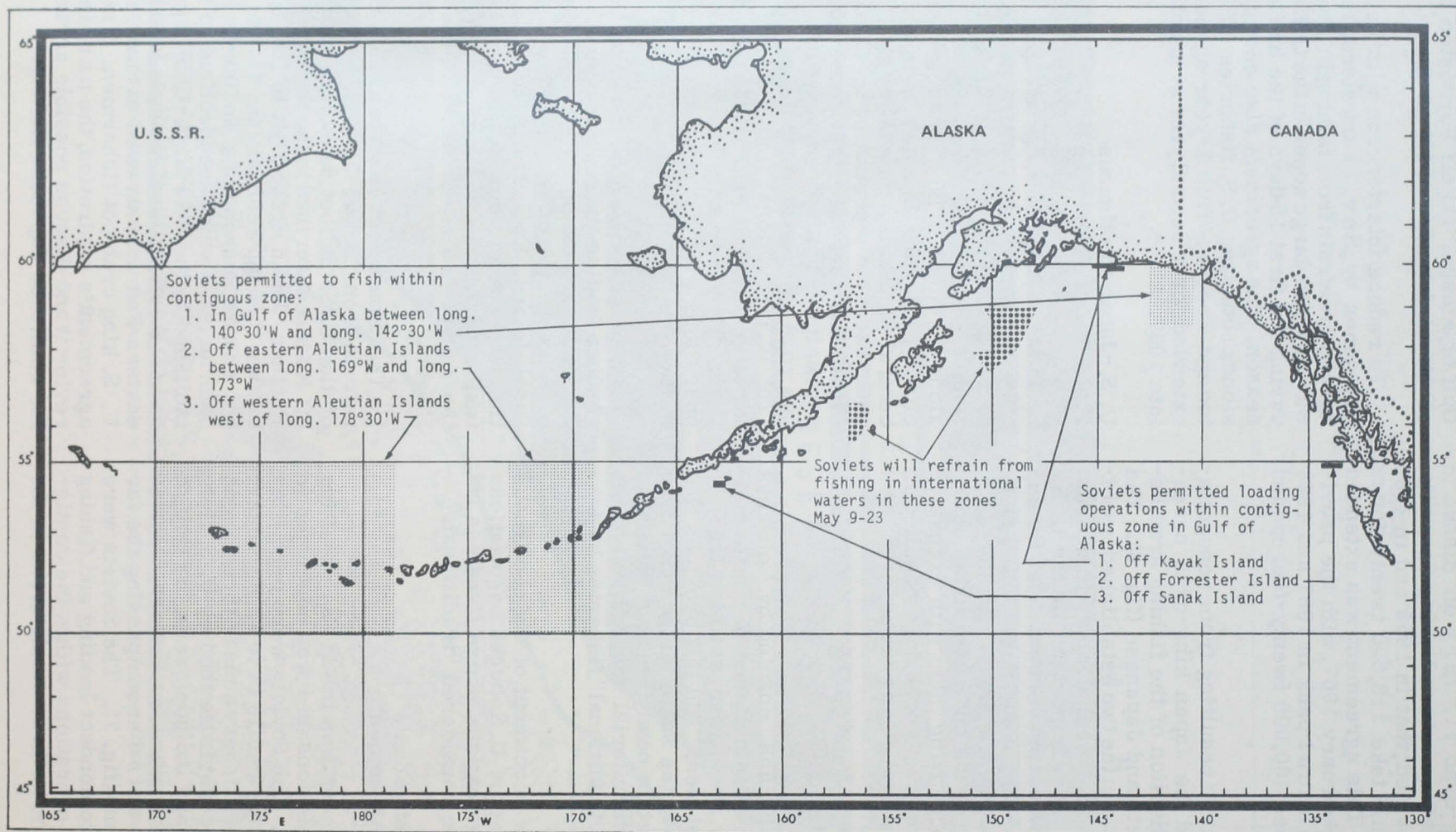


Fig. 7 - Fishing and loading areas established by 1967 U.S.-USSR contiguous fishery zone agreement.

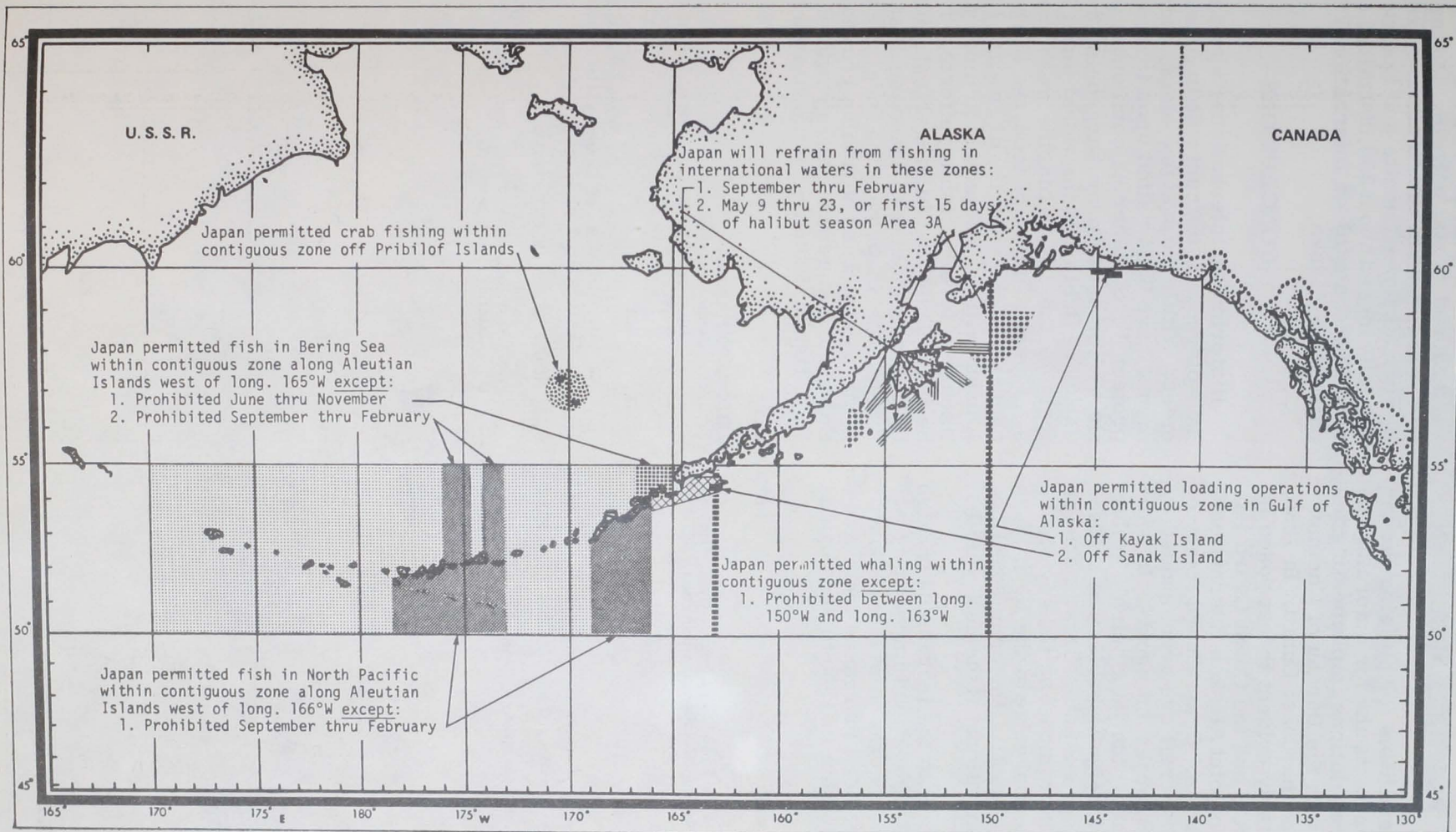


Fig. 8 - Fishing and loading areas established by 1967 U. S. -Japan contiguous fishery zone agreement.

POLICING OF FISHERIES AGREEMENTS

U. S. responsibilities for policing the international agreements and for enforcing the U. S. laws and regulations implementing the agreements lie with the Bureau of Commercial Fisheries and the Coast Guard. In 1960, with the increasingly evident threat posed by foreign fleets, BCF and the Coast Guard initiated a system of joint Alaskan international fisheries patrols. Coast Guard fisheries patrol ships and aircraft are accompanied by BCF fisheries enforcement agents. In addition to enforcement, the joint patrols gather information on foreign fisheries not subject to international agreements. This is done to help determine their impact on fishery stocks of current or potential value to the U. S. Such information is essential to formulate U. S. national and international fisheries policies.

To keep pace with the increasing foreign fisheries and the obligations imposed by additional agreements, the joint Coast Guard-BCF patrols have been increased from a few weeks by a single ship in 1960 to year-round

surface and aerial patrols. During the past few years, Coast Guard cutters, augmented by aircraft from Annette and Kodiak Islands, annually logged about 250,000 miles (10 times around the earth) on international fisheries patrols off Alaska.

CONCLUSIONS

Historically, international agreements have played a significant role in Alaskan fisheries. Within the past few years, such agreements have been relied upon increasingly to protect U. S. fisheries confronted with continual competition by burgeoning Soviet and Japanese fleets. As the world turns increasingly to the living marine resources of the seas as a source of food, the fishery resources on the vast Continental Shelf of Alaska will be subjected to more and more intensive foreign fishing efforts. There can be little doubt that bilateral and multilateral fishery agreements will assume even greater importance in preventing foreign encroachment on the stocks and fishing grounds essential to the maintenance and growth of a viable U. S. fishing industry in the Alaska area.

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