

## WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
#1b memo	Yingling to Ratiner C 2 p <i>open 12-17-99</i>	<del>6/26/67</del>	<del>A</del>
#3 memo	NSAM 361 C 4 p <i>open NLJ 92-271</i>	<del>3/14/67</del>	<del>A</del>
#4a memo	Duplicate of #3		
#5a memo	Duplicate of #3		
#7 memo	Duplicate of #3		
#8a memo	Rostow to President C 1 p <i>open NLJ 91-358</i>	<del>3/13/67</del>	<del>A</del>
#9 memo	Johnson to Rostow C 1 p <i>open 12-17-99</i>	<del>3/8/67</del>	<del>A</del>
#10 memo	Read to Rostow C 1 p	<del>12/23/66</del>	<del>A</del>
#10a memo	NSAM draft C 7 p	<del>undated</del>	<del>A</del>
#11 memo	NSAM 265 C 2 p <i>open NLJ 92-271</i>	<del>10/14/63</del>	<del>A</del>
#13 memo	NSAM draft PET 8 p <i>open NLJ 92-271</i>	<del>undated</del>	<del>A</del>

## FILE LOCATION

NSF, NSAM, NSAM 361--Treatment of Foreign Vessels Illegally Fishing Within 9-mile Exclusive Fisheries Zone  
Box 9

## RESTRICTION CODES

- (A) Closed by Executive Order 12356 governing access to national security information.  
 (B) Closed by statute or by the agency which originated the document.  
 (C) Closed in accordance with restrictions contained in the donor's deed of gift.

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S

Mr Bromley Smith

Brom -

at long last I can  
use out this file.

Butler and Youngling  
squared it with DOD

7/27

CSJ

DEPARTMENT OF STATE  
SPECIAL ASSISTANT TO THE SECRETARY

1a  
/

7/25

Chuck -

As per our conversation attached  
is the exchange of letters I thought  
Yingling had sent over to you. I  
believe the matter is now a dead  
issue & that the exchange of correspondence  
between Ratner & Yingling wrapped it  
up.

Bert Pitt



June 26, 1967

S/FW  
JUN 26 1967

16

**MEMORANDUM**

**TO:** Mr. Leigh Ratiner  
Office of Assistant General Counsel  
International Affairs  
Department of Defense

**FROM:** Raymond T. Yingling  
Assistant Legal Adviser  
Department of State

**SUBJECT:** Amendment of NSAM 361

Your memorandum of June 15, 1967 called attention to a previous memorandum of April 20, 1967, suggesting the need for amendment of NSAM 361.

As I indicated to you when we discussed this matter at some length over the phone, the Department considers that the amendment you suggested is neither necessary as a matter of law or desirable as a matter of fishery policy.

The Act approved October 14, 1966 (80 Stat. 908) established a 9-mile fishery zone contiguous to the territorial sea of the United States. In this contiguous zone the United States has the same exclusive rights in respect to fisheries as it has in its territorial sea. The Department of State took the position, both in writing and in oral testimony, before Congressional committees that such an Act would not be contrary to international law, nor to the foreign relations of the United States. Under international law foreign fishing fleets have no right to be in the territorial sea of the United States except in innocent passage. It follows that they can be excluded from such sea by the United States when they are not in innocent passage. Since the United States has the same rights in the 9-mile contiguous fishery zone over foreign fishing vessels it

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E.O. 12958, Sec. 3.5  
State Dept. Guidelines  
By rg, NARA, Date 12-17-99

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follows that they have no right to engage in fishing or in any activities in support of such fishery within such contiguous fisheries zone and that they can be excluded from the zone when not in innocent passage.

The Department has taken the above position in recent negotiations with foreign countries fishing off United States coasts and has obtained concessions from such governments based on such position. Furthermore, the Department is supporting proposed legislation (S. 1752) intended to apply sanctions to foreign vessels carrying on support activities within the contiguous fisheries zone.

Finally, it is the Department's considered view that the objectives of Congress in establishing a contiguous fisheries zone would be largely nullified if support vessels of foreign fishing fleets could operate at will within that zone.

Clearance: S/FW - Mr. Brittin

L/SFP:RTYingling:edk

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THE WHITE HOUSE  
WASHINGTON

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C. Johnson

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BKS

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2913

4/17 Told Bert Burden State who  
knew nothing about it. Sent him  
cy with request he inform me  
what is done.

~~CONFIDENTIAL~~  
DEPARTMENT OF DEFENSE  
OFFICE OF GENERAL COUNSEL  
WASHINGTON, D. C. 20301

15 June 1967

MEMORANDUM FOR MR. RAYMUND T. YINGLING,  
ASSISTANT LEGAL ADVISER FOR  
SPECIAL FUNCTIONAL PROBLEMS,  
DEPARTMENT OF STATE

SUBJECT: Amendment of NSAM 361

Reference is made to Mr. Warnke's memorandum of April 13, 1967, to Mr. Walt Rostow, and to my memorandum to you of April 20, 1967, pertaining to fishing fleet support activities in the United States fishing zone and the need for amendment of NSAM 361.

To date I have not received any response from you giving the Department of State's views on the amendment proposed by the Department of Defense to NSAM 361 in my memorandum. I would appreciate hearing from you at your earliest convenience.

*Leigh Ratiner*

Leigh Ratiner  
Office of Assistant General Counsel  
International Affairs

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Authority E.O. 11652 SEC. 5(A) and (D)

By ing, NARS, Date 2-12-80

*Reply drafted by  
L/SFP-16 Yingling,  
6/26/67.  
EAK*

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GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE  
WASHINGTON, D. C. 20301

13 April 1967

Honorable Walt W. Rostow  
Special Assistant to the President  
The White House  
Washington, D. C. 20501

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Authority E.O. 11652 SEC. 5(A) and (D)

By isp, NARS, Date 2-12-80

Dear Mr. Rostow:

The Department of Defense has recently received a copy of National Action Security Memorandum No. 361 on "Treatment of Foreign Vessels Illegally Fishing Within 9-Mile Exclusive Fisheries Zone." A version of this memorandum was circulated to the Department of Defense for coordination before it was sent to you for signature. At that time the Department of Defense made certain suggestions not here relevant. As actually issued, however, the memorandum departs substantially from the version coordinated with the Department of Defense. In our opinion, the version issued is not consistent with recognized principles of international law and this inconsistency jeopardizes certain national security interests.

The second sentence of paragraph 3b of NASM 361 implies that the United States has a right to order a vessel to leave the fisheries zone even after it has been established to our satisfaction by boarding and searching the vessel that there is no evidence to support a violation of the United States fishery jurisdiction. While the United States does have the right to impose regulations on the use of the United States territorial sea, subject, of course, to the right of innocent passage by foreign vessels, it has no such right in the fisheries zone in the absence of a violation of the law applicable to that zone. We can conceive of no possible defense if a foreign government were to protest a United States order to one of its vessels to leave the fisheries zone after it had been subjected to search and no evidence of a violation had been found. Any right on the part of the U. S. to order such a vessel to leave the area would then have to derive from a presumed

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DOD DIR 5200.10

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sovereign right to control navigation -- a right which does not exist on the high seas.

For national security reasons, the United States has made efforts around the world and particularly in the Western Hemisphere to encourage nations to maintain a narrow territorial sea. Extension of the United States fishery jurisdiction was carefully circumscribed so as to prevent just the implication which NASM 361 now contains. Thus, this paragraph and its implementation by the Coast Guard are unacceptable to the Department of Defense and we believe it is essential that appropriate amendments be made in the NASM.

If you agree that an amendment is called for, I would appreciate your so informing me so that I may arrange for a State/Defense meeting to make the appropriate modifications. These can then be forwarded to you in order that a revised NASM can be issued.

Sincerely yours,

  
Paul C. Warnke  
General Counsel

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RECEIVED  
ROSTOW'S OFFICE

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THE WHITE HOUSE  
WASHINGTON

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March 14, 1967

NATIONAL SECURITY ACTION MEMORANDUM NO. 361

TO: The Secretary of State  
The Secretary of Defense  
The Secretary of the Treasury  
The Secretary of the Interior  
The Secretary of Transportation  
The Attorney General

DECLASSIFIED  
E.O. 12356, Sec. 3.4  
NIJ 92-271  
By JP, NARA, Date 3/25/92

SUBJECT: Treatment of Foreign Vessels Illegally Fishing Within  
9-Mile Exclusive Fisheries Zone

Public Law 89-658, which was approved by the President on October 14, 1966, establishes a fisheries zone of nine nautical miles beyond the three nautical mile territorial sea. This legislation applies to the United States, its territories and possessions, but not to other areas under United States administration. Within this fisheries zone the United States exercises the same exclusive rights over fisheries as in the territorial sea, subject to continuation of such traditional fishing by foreign vessels as may be recognized by the United States. Foreign vessels and nationals violating the provisions of this law may be seized, arrested and punished in accordance with federal law.

The following instructions regarding the enforcement of PL 89-658 are approved:

1. All Governments likely to be directly concerned with the implementation of PL 89-658 have been officially notified by the Department of State. Such notification was completed prior to December 1, 1966; the countries concerned included Japan, Canada, Mexico, the USSR and all parties to the International Convention for the Northwest Atlantic Fisheries.

2. a. Except as provided in paragraph 2.b. the following procedure shall apply. If there is reasonable or probable cause to believe that a vessel has violated PL 89-658, as defined in paragraph 3, it may be boarded and searched. If enough evidence is found that the vessel has been violating United States law it shall be detained for further investigation. If no reason for detaining the vessel is found it shall be permitted to continue on its way.

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b. Vessels of Japan, Canada, Mexico and the USSR fishing for the stocks of fish or as otherwise noted in the specific areas as described below will not be boarded and searched but will be sighted and reported to the operational commander and the Commandant, U. S. Coast Guard; information to State, Interior, Treasury and Defense. The Department of State will pass notice of violation to the country concerned; in case of Soviet vessels notice of violation to appropriate Soviet fishing fleet commanders by Coast Guard District Commanders will also be made if possible. This procedure will continue for the four countries concerned until new instructions are received from the Department of State reflecting the status of negotiations for the recognition of traditional fisheries for each country.

(1) Mexico - Fishing within the 3 to 12 mile zone off Southern California and Texas.

(2) Japan

(a) Trawling and long-lining in the 3 to 12 mile zone off the State of Alaska in the Bering Sea, the North Pacific Ocean, and the Gulf of Alaska west of 148° West Longitude.

(b) Whaling in the zone off the Aleutian and Pribilof Islands, and all other areas of the Pacific Coast of Alaska, including the Gulf of Alaska.

(c) Salmon fishing in the zone off the Aleutians west of 175° West Longitude.

(d) King crab fishing in the zone in the Bering Sea off the Alaska Peninsula and the Pribilof Islands.

(e) Tuna fishing in the zone off Southern California, the State of Hawaii, the Atlantic coast from New York to Maryland inclusive, the Atlantic coast of Florida, and off Texas, Louisiana, Mississippi, Alabama and Florida west of 85° West Longitude.



(3) USSR - Fishing within the 3 to 12 mile zone off the State of Alaska.

(4) Canada - Fishing within the 3 to 12 mile zone off Alaska, the Pacific Coast and New England states.

3. a. For the purpose of this directive, reason to believe that a foreign vessel has violated the law includes foreign vessels having fishing gear in use or rigged for use so as to lead to the evaluated conclusion that the vessel's intention is to commence fishing within the zone or that the vessel has recently completed removing the fishing gear from the waters within the zone.

b. Whenever foreign vessels are found carrying out fishing fleet support activities in the fisheries zone, the Coast Guard may, where there is reason to believe that a vessel has fish that were illegally caught in the territorial sea or the fisheries zone, board such vessel to determine if a violation has occurred. If reasonable cause does not exist, or if upon boarding there is no evidence to support a violation, the foreign vessel concerned shall be informed that it is in the fisheries zone of the United States and is to depart immediately. No force is authorized should an order to leave the fisheries zone be ignored.

c. The Commandant of the Coast Guard is directed to establish in consultation with other enforcement agencies criteria of proof for the guidance of subordinate commanders in enforcing this law. These criteria should specify that vessels which, under a reasonable interpretation of the evidence, may be deemed to have violated the law inadvertently shall be escorted out of the zone, and shall only be detained to the extent necessary to establish such inadvertency.

4. The distinction between the fisheries zone and the territorial sea is pertinent in carrying out enforcement procedures. As defined by law, fishing vessels within the territorial sea must be in innocent passage; within the contiguous fishery zone foreign vessels need only refrain from fishing operations as defined above. The doctrine of hot pursuit applies to foreign vessels fishing in the zone.

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5. Every effort should be made not to discriminate between countries in the enforcement of this law.

6. All necessary force may be employed in carrying out these instructions provided that there is clear evidence that a violation of the law has occurred.

7. The Department of State, Interior, Treasury, Transportation and Defense will be kept informed by the most expeditious means of any action taken by enforcement agencies under these instructions.

8. The Commandant of the Coast Guard is authorized to delegate authority to the various Coast Guard District Commanders to take immediate action under these instructions.

9. Treatment of Soviet Bloc fishing vessels in United States territorial waters will continue to be governed by NSAM 265 of October 14, 1963.

*W W Rostow*

W. W. Rostow

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Extra Copies

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THE WHITE HOUSE  
WASHINGTON

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March 14, 1967

NATIONAL SECURITY ACTION MEMORANDUM NO. 361

TO:           The Secretary of State  
              The Secretary of Defense  
              The Secretary of the Treasury  
              The Secretary of the Interior  
              The Secretary of Transportation  
              The Attorney General

DECLASSIFIED  
E.O. 12356, Sec. 3.4  
NIJ 92-271  
By           , NARA, Date 3/25/92

SUBJECT:    Treatment of Foreign Vessels Illegally Fishing Within  
              9-Mile Exclusive Fisheries Zone

Public Law 89-658, which was approved by the President on October 14, 1966, establishes a fisheries zone of nine nautical miles beyond the three nautical mile territorial sea. This legislation applies to the United States, its territories and possessions, but not to other areas under United States administration. Within this fisheries zone the United States exercises the same exclusive rights over fisheries as in the territorial sea, subject to continuation of such traditional fishing by foreign vessels as may be recognized by the United States. Foreign vessels and nationals violating the provisions of this law may be seized, arrested and punished in accordance with federal law.

The following instructions regarding the enforcement of PL 89-658 are approved:

1. All Governments likely to be directly concerned with the implementation of PL 89-658 have been officially notified by the Department of State. Such notification was completed prior to December 1, 1966; the countries concerned included Japan, Canada, Mexico, the USSR and all parties to the International Convention for the Northwest Atlantic Fisheries.

2. a. Except as provided in paragraph 2. b. the following procedure shall apply. If there is reasonable or probable cause to believe that a vessel has violated PL 89-658, as defined in paragraph 3, it may be boarded and searched. If enough evidence is found that the vessel has been violating United States law it shall be detained for further investigation. If no reason for detaining the vessel is found it shall be permitted to continue on its way.

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b. Vessels of Japan, Canada, Mexico and the USSR fishing for the stocks of fish or as otherwise noted in the specific areas as described below will not be boarded and searched but will be sighted and reported to the operational commander and the Commandant, U. S. Coast Guard; information to State, Interior, Treasury and Defense. The Department of State will pass notice of violation to the country concerned; in case of Soviet vessels notice of violation to appropriate Soviet fishing fleet commanders by Coast Guard District Commanders will also be made if possible. This procedure will continue for the four countries concerned until new instructions are received from the Department of State reflecting the status of negotiations for the recognition of traditional fisheries for each country.

(1) Mexico - Fishing within the 3 to 12 mile zone off Southern California and Texas.

(2) Japan

(a) Trawling and long-lining in the 3 to 12 mile zone off the State of Alaska in the Bering Sea, the North Pacific Ocean, and the Gulf of Alaska west of 148° West Longitude.

(b) Whaling in the zone off the Aleutian and Pribilof Islands, and all other areas of the Pacific Coast of Alaska, including the Gulf of Alaska.

(c) Salmon fishing in the zone off the Aleutians west of 175° West Longitude.

(d) King crab fishing in the zone in the Bering Sea off the Alaska Peninsula and the Pribilof Islands.

(e) Tuna fishing in the zone off Southern California, the State of Hawaii, the Atlantic coast from New York to Maryland inclusive, the Atlantic coast of Florida, and off Texas, Louisiana, Mississippi, Alabama and Florida west of 85° West Longitude.

(3) USSR - Fishing within the 3 to 12 mile zone off the State of Alaska.

(4) Canada - Fishing within the 3 to 12 mile zone off Alaska, the Pacific Coast and New England states.

3. a. For the purpose of this directive, reason to believe that a foreign vessel has violated the law includes foreign vessels having fishing gear in use or rigged for use so as to lead to the evaluated conclusion that the vessel's intention is to commence fishing within the zone or that the vessel has recently completed removing the fishing gear from the waters within the zone.

b. Whenever foreign vessels are found carrying out fishing fleet support activities in the fisheries zone, the Coast Guard may, where there is reason to believe that a vessel has fish that were illegally caught in the territorial sea or the fisheries zone, board such vessel to determine if a violation has occurred. If reasonable cause does not exist, or if upon boarding there is no evidence to support a violation, the foreign vessel concerned shall be informed that it is in the fisheries zone of the United States and is to depart immediately. No force is authorized should an order to leave the fisheries zone be ignored.

c. The Commandant of the Coast Guard is directed to establish in consultation with other enforcement agencies criteria of proof for the guidance of subordinate commanders in enforcing this law. These criteria should specify that vessels which, under a reasonable interpretation of the evidence, may be deemed to have violated the law inadvertently shall be escorted out of the zone, and shall only be detained to the extent necessary to establish such inadvertency.

4. The distinction between the fisheries zone and the territorial sea is pertinent in carrying out enforcement procedures. As defined by law, fishing vessels within the territorial sea must be in innocent passage; within the contiguous fishery zone foreign vessels need only refrain from fishing operations as defined above. The doctrine of hot pursuit applies to foreign vessels fishing in the zone.

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5. Every effort should be made not to discriminate between countries in the enforcement of this law.

6. All necessary force may be employed in carrying out these instructions provided that there is clear evidence that a violation of the law has occurred.

7. The Department of State, Interior, Treasury, Transportation and Defense will be kept informed by the most expeditious means of any action taken by enforcement agencies under these instructions.

8. The Commandant of the Coast Guard is authorized to delegate authority to the various Coast Guard District Commanders to take immediate action under these instructions.

9. Treatment of Soviet Bloc fishing vessels in United States territorial waters will continue to be governed by NSAM 265 of October 14, 1963.

*W W Rostow*

W. W. Rostow

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THE WHITE HOUSE  
WASHINGTON

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E.O. 12356, Sec. 3.4  
NJ 92-271  
By 99, NARA, Date 3/25/92

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March 14, 1967

NATIONAL SECURITY ACTION MEMORANDUM NO. 361

TO: The Secretary of State  
The Secretary of Defense  
The Secretary of the Treasury  
The Secretary of the Interior  
The Secretary of Transportation  
The Attorney General

SUBJECT: Treatment of Foreign Vessels Illegally Fishing Within  
9-Mile Exclusive Fisheries Zone

Public Law 89-658, which was approved by the President on October 14, 1966, establishes a fisheries zone of nine nautical miles beyond the three nautical mile territorial sea. This legislation applies to the United States, its territories and possessions, but not to other areas under United States administration. Within this fisheries zone the United States exercises the same exclusive rights over fisheries as in the territorial sea, subject to continuation of such traditional fishing by foreign vessels as may be recognized by the United States. Foreign vessels and nationals violating the provisions of this law may be seized, arrested and punished in accordance with federal law.

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2. a. Except as provided in paragraph 2. b. the following procedure shall apply. If there is reasonable or probable cause to believe that a vessel has violated PL 89-658, as defined in paragraph 3, it may be boarded and searched. If enough evidence is found that the vessel has been violating United States law it shall be detained for further investigation. If no reason for detaining the vessel is found it shall be permitted to continue on its way.

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b. Vessels of Japan, Canada, Mexico and the USSR fishing for the stocks of fish or as otherwise noted in the specific areas as described below will not be boarded and searched but will be sighted and reported to the operational commander and the Commandant, U. S. Coast Guard; information to State, Interior, Treasury and Defense. The Department of State will pass notice of violation to the country concerned; in case of Soviet vessels notice of violation to appropriate Soviet fishing fleet commanders by Coast Guard District Commanders will also be made if possible. This procedure will continue for the four countries concerned until new instructions are received from the Department of State reflecting the status of negotiations for the recognition of traditional fisheries for each country.

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3. a. For the purpose of this directive, reason to believe that a foreign vessel has violated the law includes foreign vessels having fishing gear in use or rigged for use so as to lead to the evaluated conclusion that the vessel's intention is to commence fishing within the zone or that the vessel has recently completed removing the fishing gear from the waters within the zone.

b. Whenever foreign vessels are found carrying out fishing fleet support activities in the fisheries zone, the Coast Guard may, where there is reason to believe that a vessel has fish that were illegally caught in the territorial sea or the fisheries zone, board such vessel to determine if a violation has occurred. If reasonable cause does not exist, or if upon boarding there is no evidence to support a violation, the foreign vessel concerned shall be informed that it is in the fisheries zone of the United States and is to depart immediately. No force is authorized should an order to leave the fisheries zone be ignored.

c. The Commandant of the Coast Guard is directed to establish in consultation with other enforcement agencies criteria of proof for the guidance of subordinate commanders in enforcing this law. These criteria should specify that vessels which, under a reasonable interpretation of the evidence, may be deemed to have violated the law inadvertently shall be escorted out of the zone, and shall only be detained to the extent necessary to establish such inadvertency.

4. The distinction between the fisheries zone and the territorial sea is pertinent in carrying out enforcement procedures. As defined by law, fishing vessels within the territorial sea must be in innocent passage; within the contiguous fishery zone foreign vessels need only refrain from fishing operations as defined above. The doctrine of hot pursuit applies to foreign vessels fishing in the zone.

5. Every effort should be made not to discriminate between countries in the enforcement of this law.

6. All necessary force may be employed in carrying out these instructions provided that there is clear evidence that a violation of the law has occurred.

7. The Department of State, Interior, Treasury, Transportation and Defense will be kept informed by the most expeditious means of any action taken by enforcement agencies under these instructions.

8. The Commandant of the Coast Guard is authorized to delegate authority to the various Coast Guard District Commanders to take immediate action under these instructions.

9. Treatment of Soviet Bloc fishing vessels in United States territorial waters will continue to be governed by NSAM 265 of October 14, 1963.

*W W Rostow*

W. W. Rostow





~~CONFIDENTIAL~~

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE  
WASHINGTON, D. C. 20301

13 April 1967

Honorable Walt W. Rostow  
Special Assistant to the President  
The White House  
Washington, D. C. 20501

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BKS  
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Authority E.O. 11652 SEC. 5(A) and (D)  
By ing, NARS, Date 2-12-80

Dear Mr. Rostow:

The Department of Defense has recently received a copy of National Action Security Memorandum No. 361 on "Treatment of Foreign Vessels Illegally Fishing Within 9-Mile Exclusive Fisheries Zone." A version of this memorandum was circulated to the Department of Defense for coordination before it was sent to you for signature. At that time the Department of Defense made certain suggestions not here relevant. As actually issued, however, the memorandum departs substantially from the version coordinated with the Department of Defense. In our opinion, the version issued is not consistent with recognized principles of international law and this inconsistency jeopardizes certain national security interests. '

The second sentence of paragraph 3b of NASM 361 implies that the United States has a right to order a vessel to leave the fisheries zone even after it has been established to our satisfaction by boarding and searching the vessel that there is no evidence to support a violation of the United States fishery jurisdiction. While the United States does have the right to impose regulations on the use of the United States territorial sea, subject, of course, to the right of innocent passage by foreign vessels, it has no such right in the fisheries zone in the absence of a violation of the law applicable to that zone. We can conceive of no possible defense if a foreign government were to protest a United States order to one of its vessels to leave the fisheries zone after it had been subjected to search and no evidence of a violation had been found. Any right on the part of the U. S. to order such a vessel to leave the area would then have to derive from a presumed

DOWNGRADED AT 3 YEAR INTERVALS;  
DECLASSIFIED AFTER 12 YEARS.  
DOD DIR 5200.10

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sovereign right to control navigation -- a right which does not exist on the high seas.

For national security reasons, the United States has made efforts around the world and particularly in the Western Hemisphere to encourage nations to maintain a narrow territorial sea. Extension of the United States fishery jurisdiction was carefully circumscribed so as to prevent just the implication which NASM 361 now contains. Thus, this paragraph and its implementation by the Coast Guard are unacceptable to the Department of Defense and we believe it is essential that appropriate amendments be made in the NASM.

If you agree that an amendment is called for, I would appreciate your so informing me so that I may arrange for a State/Defense meeting to make the appropriate modifications. These can then be forwarded to you in order that a revised NASM can be issued.

Sincerely yours,

(Signed) Paul C. Warnke

Paul C. Warnke  
General Counsel

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ROSTOW'S OFFICE

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THE WHITE HOUSE  
WASHINGTON

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March 14, 1967

NATIONAL SECURITY ACTION MEMORANDUM NO. 361

TO: The Secretary of State  
The Secretary of Defense  
The Secretary of the Treasury  
The Secretary of the Interior  
The Secretary of Transportation  
The Attorney General

DECLASSIFIED  
E.O. 12356, SEC. 3.4  
NLJ 92-271  
By JP, NARA, Date 3/25/92

SUBJECT: Treatment of Foreign Vessels Illegally Fishing Within  
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The following instructions regarding the enforcement of PL 89-658 are approved:

1. All Governments likely to be directly concerned with the implementation of PL 89-658 have been officially notified by the Department of State. Such notification was completed prior to December 1, 1966; the countries concerned included Japan, Canada, Mexico, the USSR and all parties to the International Convention for the Northwest Atlantic Fisheries.

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Dispatched 3/14/67 Repts #89-94

b. Vessels of Japan, Canada, Mexico and the USSR fishing for the stocks of fish or as otherwise noted in the specific areas as described below will not be boarded and searched but will be sighted and reported to the operational commander and the Commandant, U. S. Coast Guard; information to State, Interior, Treasury and Defense. The Department of State will pass notice of violation to the country concerned; in case of Soviet vessels notice of violation to appropriate Soviet fishing fleet commanders by Coast Guard District Commanders will also be made if possible. This procedure will continue for the four countries concerned until new instructions are received from the Department of State reflecting the status of negotiations for the recognition of traditional fisheries for each country.

(1) Mexico - Fishing within the 3 to 12 mile zone off Southern California and Texas.

(2) Japan

(a) Trawling and long-lining in the 3 to 12 mile zone off the State of Alaska in the Bering Sea, the North Pacific Ocean, and the Gulf of Alaska west of 148° West Longitude.

(b) Whaling in the zone off the Aleutian and Pribilof Islands, and all other areas of the Pacific Coast of Alaska, including the Gulf of Alaska.

(c) Salmon fishing in the zone off the Aleutians west of 175° West Longitude.

(d) King crab fishing in the zone in the Bering Sea off the Alaska Peninsula and the Pribilof Islands.

(e) Tuna fishing in the zone off Southern California, the State of Hawaii, the Atlantic coast from New York to Maryland inclusive, the Atlantic coast of Florida, and off Texas, Louisiana, Mississippi, Alabama and Florida west of 85° West Longitude.

(3) USSR - Fishing within the 3 to 12 mile zone off the State of Alaska.

(4) Canada - Fishing within the 3 to 12 mile zone off Alaska, the Pacific Coast and New England states.

3. a. For the purpose of this directive, reason to believe that a foreign vessel has violated the law includes foreign vessels having fishing gear in use or rigged for use so as to lead to the evaluated conclusion that the vessel's intention is to commence fishing within the zone or that the vessel has recently completed removing the fishing gear from the waters within the zone.

b. Whenever foreign vessels are found carrying out fishing fleet support activities in the fisheries zone, the Coast Guard may, where there is reason to believe that a vessel has fish that were illegally caught in the territorial sea or the fisheries zone, board such vessel to determine if a violation has occurred. If reasonable cause does not exist, or if upon boarding there is no evidence to support a violation, the foreign vessel concerned shall be informed that it is in the fisheries zone of the United States and is to depart immediately. No force is authorized should an order to leave the fisheries zone be ignored.

c. The Commandant of the Coast Guard is directed to establish in consultation with other enforcement agencies criteria of proof for the guidance of subordinate commanders in enforcing this law. These criteria should specify that vessels which, under a reasonable interpretation of the evidence, may be deemed to have violated the law inadvertently shall be escorted out of the zone, and shall only be detained to the extent necessary to establish such inadvertency.

4. The distinction between the fisheries zone and the territorial sea is pertinent in carrying out enforcement procedures. As defined by law, fishing vessels within the territorial sea must be in innocent passage; within the contiguous fishery zone foreign vessels need only refrain from fishing operations as defined above. The doctrine of hot pursuit applies to foreign vessels fishing in the zone.



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5. Every effort should be made not to discriminate between countries in the enforcement of this law.

6. All necessary force may be employed in carrying out these instructions provided that there is clear evidence that a violation of the law has occurred.

7. The Department of State, Interior, Treasury, Transportation and Defense will be kept informed by the most expeditious means of any action taken by enforcement agencies under these instructions.

8. The Commandant of the Coast Guard is authorized to delegate authority to the various Coast Guard District Commanders to take immediate action under these instructions.

9. Treatment of Soviet Bloc fishing vessels in United States territorial waters will continue to be governed by NSAM 265 of October 14, 1963.

*W W Rostow*

W. W. Rostow

*Cop to: C. Johnson  
NSC Files*

~~CONFIDENTIAL~~

6

NATIONAL SECURITY COUNCIL

March 13, 1967

NOTE FOR MR. BROMLEY SMITH

Brom --

Arthur Focke looked this file over and said that he thought we should clarify the fact that this draft NSAM is an internal governmental instruction for certain officers and is not technically a regulation having the force of law that would have to be published in the Federal Register. I accordingly deleted the word regulation which I had unwittingly used in the draft memo for the President and inserted a sentence along the lines of Art's suggestion.

Art also added that he noted the draft instruction had already been cleared by the Attorney General so he did not think that any further referral to the Department of Justice was necessary under the circumstances.

  
C. E. Johnson

~~CONFIDENTIAL~~ Attachments

*Mr. Rostow  
This is now OK to sign to  
send to the President*

MEMORANDUM

(6-7)  
THE WHITE HOUSE  
WASHINGTON

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CONFIDENTIAL

March 13, 1967

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Treatment of Foreign Vessels Illegally Fishing Within U.S.  
9-Mile Exclusive Fisheries Zone

The Secretary of State has developed, with the concurrence of the Secretaries of Defense, Treasury, Interior, Transportation, and the Attorney General, procedures for the enforcement of Public Law 89-658, approved by you last October, which establishes a U. S. contiguous fishery zone of nine nautical miles beyond the three nautical mile territorial sea. This law provides that within this nine mile zone the U. S. will exercise the same exclusive rights over fisheries as in the territorial sea. However, we will continue to recognize traditional fishing by foreign vessels belonging to Japan, Canada, Mexico, the USSR and all parties to the Northwest Atlantic Fisheries International Convention. (This latter group other than the countries mentioned represents a very minor proportion of those countries fishing in the U.S. contiguous fishery zone.) The countries involved were all notified of the new law prior to December 1, 1966.

These instructions are needed to provide for the enforcement of the new law by the Commandant of the Coast Guard and have been concurred in by all affected agency heads. They are internal governmental instructions not requiring publication in the Federal Register as would be the case if they were regulations. I recommend that you authorize me to sign the attached draft NSAM. The treatment of Soviet Bloc fishing vessels in U. S. territorial waters will continue to be governed by NSAM 265 of October 14, 1963, a copy of which I attach for your information. Also attached is a copy of PL 89-658.

☒ Approved  
☐ Disapproved  
☐ See me

Walt

W. W. Rostow

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DECLASSIFIED  
E.O. 12356, Sec. 3.4  
NJ 91-358  
By plp, NARA, Date 3/25/92

NATIONAL SECURITY COUNCIL

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~~CONFIDENTIAL~~

March 8, 1967

NOTE FOR MR. W. W. ROSTOW

SUBJECT: Treatment of Foreign Vessels  
Illegally Fishing Within 9-Mile  
Exclusive Fisheries Zone

Walt --

The attached memo for the President on the above subject is self-explanatory. Nat Davis and I have gone over it and we believe it is now ready for referral to the President. We are suggesting that you sign the NSAM following the precedent established by Mac Bundy in connection with the issuance of NSAM 265 in October 1963.



Charles E. Johnson

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DECLASSIFIED  
E.O. 12958, Sec. 3.5  
NSC Memo, 1/30/93, State Dept. Guidelines  
By rg, NARA, Date 12.17.99



DEPARTMENT OF STATE  
WASHINGTON

LIMITED OFFICIAL USE

February 23, 1967

MEMORANDUM FOR MR. WALT W. ROSTOW  
THE WHITE HOUSE

SUBJECT: Treatment of Foreign Vessels Illegally  
Fishing Within U. S. 9-Mile Exclusive  
Fisheries Zone

Enclosed is a draft National Security Action Memorandum covering procedures for enforcement of Public Law 89-658 which established a U. S. contiguous fishery zone of nine nautical miles beyond the three nautical mile territorial sea. This draft was prepared by the Department of State and has been approved by the Departments of Treasury, Defense, Interior, Justice and Transportation. The Department recommends that this draft be issued as a National Security Action Memorandum.

*Benjamin H. Read*  
Benjamin H. Read  
Executive Secretary

Enclosure:

Draft memorandum

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DEPARTMENT OF STATE  
WASHINGTON

December 23, 1966

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*See second  
draft  
2/23/67*

MEMORANDUM FOR MR. WALT W. ROSTOW  
THE WHITE HOUSE

SUBJECT: Treatment of Foreign Vessels Illegally  
Fishing within U.S. 9-Mile Exclusive  
Fisheries Zone

Enclosed please find a draft National Security Action Memorandum relative to the enforcement of Public Law 89-658 which established a contiguous fishery zone of nine nautical miles beyond the three nautical mile territorial sea. The draft enforcement procedures, as enclosed, were prepared within the Department of State and are forwarded for consideration by National Security agencies. The interim 30-day enforcement period comes to an end on December 31, 1966; pending issuance of the proposed NSAM, interim enforcement measures will remain in force.

*ms*  
Benjamin H. Read  
Executive Secretary

Enclosure:

Draft memorandum.

DECLASSIFIED  
E.O. 11652, Dec 31  
State Dept Guidelines  
By 19 NARA, Date 12.17.99

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1966 DEC 24 AM 10 35

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DRAFT NATIONAL SECURITY ACTION MEMORANDUM

TO:                   The Secretary of State  
                      The Secretary of Defense  
                      The Secretary of the Treasury  
                      The Secretary of the Interior  
                      The Secretary of Transportation  
                      The Attorney General

SUBJECT:   Treatment of Foreign Vessels Illegally Fishing  
                  within 9-Mile Exclusive Fisheries zone.

Public Law 89-658, which was approved by the President on October 14, 1966, establishes a contiguous fishery zone of nine nautical miles beyond the three nautical mile territorial sea. This legislation applies to the United States, its territories and possessions, but not to other areas under United States administration. Within this contiguous <sup>fisheries</sup> zone the United States exercises the same exclusive rights over fisheries as in the territorial sea, subject to continuation of such traditional fishing by foreign vessels as may be recognized by the United States. Foreign vessels and nationals violating the provisions of this law may be seized <sup>arrested</sup> and punished in accordance with federal law.

The following instructions regarding the enforcement of PL 89-658 are approved:

1. All Governments likely to be directly concerned with

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EO 12958, 1.2.5  
NSC Memo, 1/3/93, State Dept. Guidelines  
By 12, NARA, Date 12.17.99

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the implementation of PL 89-658 have been officially notified by the Department of State. Such notification was completed prior to December 1, 1966; the countries concerned included Japan, Canada, Mexico, the USSR and all parties to the International Convention for the Northwest Atlantic Fisheries.

2. Preliminary to full enforcement under the Act an interim period ~~of 30 days~~ commencing December 2, 1966 and ~~concluding~~ <sup>ending</sup> ~~December 31, 1966~~ <sup>Feb. 28, 1967</sup> has been established. During this period the following actions will be taken except as provided in paragraph 3:

- a. First Offenders - Foreign fishing vessels fishing in the area 3 to 12 miles off the United States coast will be warned that they are violating United States law and will be escorted out of the fishery zone except as noted in paragraph 3 below. Sightings, warnings, and escorting by enforcement units will be reported to the <sup>Operational Command and the</sup> Commandant ~~of the~~ Coast Guard; information to <sup>the Secretary</sup> State, Interior, and Defense. The Department of State will pass notice of violation to the country concerned; in case of Soviet vessels

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notice of violation to appropriate Soviet

fishing fleet commanders by Coast Guard

District Commanders will also be made *if possible*

- b. Second Offenders - Enforcement units will report violations by second offenders to <sup>operational commanders</sup> ~~Headquarters,~~ *and the Commandant, USCGC;* ~~Coast Guard Commandant~~ <sup>transp.</sup> with information to State, Interior, <sup>justice</sup> and Defense. No <sup>enforcement</sup> action is to be taken by ~~operating~~ units until instructions have been received. Instructions may include authorization to board and seize vessel.

3. The following exceptions to paragraph 2 above will be in effect during the <sup>interim</sup> ~~30-day~~ period. Based on actual or probable claims of traditional fishing of the four countries listed below, in the areas noted, no action except to identify and report will be taken by enforcement agencies. ~~Pending the receipt of an expected claim to traditional fishing by the USSR, the USSR will be notified through diplomatic channels that its vessels are fishing within our exclusive zone in violation of our law.~~

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- a. Mexico - Fishing within the 3 to 12 mile zone off Southern California and Texas.
- b. Japan
  - (1) Trawling and long-lining in the 3 to 12 mile zone off the State of Alaska in the Bering Sea, the North Pacific Ocean, and the Gulf of Alaska west of 148° West Longitude.
  - (2) Whaling in the zone off the Aleutian and Pribilof Islands, and all other areas of the Pacific Coast of Alaska, including the Gulf of Alaska.
  - (3) Salmon fishing in the zone off the Aleutians west of 175 degrees West Longitude.
  - (4) King crab fishing in the zone in the Bering Sea off the Alaska Peninsula and the Pribilof Islands.
  - (5) Tuna fishing in the zone off Southern California, <sup>Hawaii</sup> Hawaii, the Atlantic coast from New York to Maryland inclusive, the Atlantic coast of Florida, and off Texas, Louisiana, Mississippi, Alabama and Florida west of 85° West Longitude.



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c. USSR - Fishing within the 3 to 12 mile zone off the State of Alaska.

d. Canada - Fishing within the 3 to 12 mile zone off Alaska, the Pacific Coast and New England states,

4(a). Except as provided in paragraph 4(b) the following procedure shall apply after the interim enforcement period of ~~December 2-31, 1966. Commencing January 1, 1967, if there is~~ *If there is reasonable or probable cause.* ~~reason~~ to believe that a vessel has violated PL 89-658, as defined in paragraph 5, it may be boarded and searched. If enough evidence is found that the vessel has been violating United States law it shall be detained for further investigation. If no reason for detaining the vessel is found it shall be permitted to continue on its way.

4(b). Vessels of Japan, Canada, Mexico and the USSR fishing for the stocks of fish or as otherwise noted in the specific areas described in paragraph 3 above will not be boarded and searched but will be sighted and reported as was done during the interim ~~30-day~~ enforcement period. (Pending receipt of a claim from the Soviet government the notification procedure described in paragraph 3 above will be followed.) This procedure will continue for the four countries concerned until new instructions are received from the Department of State reflecting the status of negotiations for the recognition of traditional fisheries for each country.

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5. For the purposes of this directive illegal fishing operations within the contiguous zone are defined to include foreign fishing vessels having fishing gear in use or rigged for use so as to lead to the evaluated conclusion that the vessel's intention is to commence fishing within the zone or that the vessel has recently completed removing the fishing gear from the waters within the zone. Illegal fishing also includes the support of illegal fishing within the zone through fishing fleet support vessels, such as factory ships and supply vessels present in the zone. The Commandant of the Coast Guard is directed to establish criteria of proof for the guidance of subordinate commanders in enforcing this law. These criteria should specify that vessels which, under a reasonable interpretation of the evidence, may be deemed to have violated the law inadvertently shall be escorted out of the zone, not detained.

6. The distinction between the contiguous fishery zone and the territorial sea is pertinent in carrying out enforcement procedures. As defined by law fishing vessels within the territorial sea must be in innocent passage; within the contiguous fishery zone they need only refrain from fishing operations. The doctrine of hot pursuit applies to the zone.

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7. Every effort should be made not to discriminate between countries in enforcement of this law except where claims of traditional fishing have been made.

8. All necessary force may be employed in carrying out these instructions provided that there is clear evidence that a violation of the law has occurred.

9. The Departments of State, Interior, Treasury and Defense will be kept informed by the most expeditious means of any action taken by enforcement agencies under these instructions.

10. The Commandant of the Coast Guard is authorized to delegate authority to the various Coast Guard District Commanders to take immediate action under these instructions.

11. Treatment of Soviet Bloc fishing vessels in United States territorial waters will continue to be governed by NSAM 265 of October 14, 1963.

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## THE WHITE HOUSE

WASHINGTON

11

~~CONFIDENTIAL~~

October 14, 1963

NATIONAL SECURITY ACTION MEMORANDUM NO. 265

TO: The Secretary of State  
The Secretary of Defense  
The Secretary of the Treasury

DECLASSIFIED  
E.O. 12356, Sec. 3.4  
NJ 92-271  
By           , NARA, Date 3/25/92

SUBJECT: Treatment of Soviet Bloc Fishing Vessels

The following instructions, regarding U.S. Coast Guard treatment of Soviet Bloc fishing vessels entering United States territorial waters, have been approved:

1. A vessel in innocent passage, as defined by the Convention on the Territorial Sea and the Contiguous Zone, Geneva, 1958, will not be disturbed, but will be kept under surveillance while it remains in U.S. territorial waters.

2. A vessel that enters U.S. territorial waters will not be considered in innocent passage and may be stopped, boarded, and searched if:

(a) The Coast Guard has intelligence information which gives reasonable grounds for believing that the vessel is engaged in violation of U.S. laws, or that it constitutes a threat to U.S. security.

(b) The vessel is configured in such a manner as to raise a reasonable suspicion that it is engaged in violating U.S. laws, or that it threatens U.S. security. Thus, if what purports to be a normal fishing vessel in innocent passage were obviously configured for the collection of electronic intelligence, its passage would not be considered innocent until it had been boarded and searched, and its innocent character established.

(c) The vessel behaves in such a manner that it may be reasonably suspected of violating U.S. laws or endangering U.S. security. Such behavior, when considered in the context of existing circumstances, might include (1) stopping, anchoring, or hovering not incident to navigation; (2) making contact with a vessel from the beach; (3) having its own boats

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S/O - 9/23/64

copy to C/PM - Webb  
on 12/22/64

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in the water; (4) fishing illegally; (5) having its nets or trawls rigged for immediate use in an area where it cannot legally fish; (6) operating at night without lights or with illegal lights; (7) communicating with the shore.

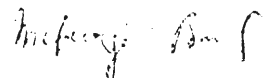
3. A vessel that enters U.S. territorial waters by reason of "force majeure", distress, or for shelter from a very dangerous storm shall be permitted to remain while its reason for entering continues to exist. However, it shall be boarded and searched to make sure that its reason for entry is valid, that it is not violating U.S. laws, and that it does not threaten U.S. security. While it remains in U.S. waters it shall be kept under surveillance.

4. If, upon boarding and search of a vessel discovered within U.S. territorial waters, evidence is found that the vessel is or has been violating U.S. laws or constitutes a threat to U.S. security, it shall be detained for further investigation. If no reason for detaining the vessel is found, it shall be escorted to the high seas, permitted to continue its innocent passage, or permitted to remain if it has a continuing valid reason such as "force majeure".

5. All necessary force may be employed in carrying out these instructions.

6. The Departments of State, Treasury, and Navy will be kept informed by rapid means of any action taken by the Coast Guard under these instructions.

7. The Commandant of the Coast Guard is authorized to delegate authority to the various Coast Guard District Commanders to take immediate action under these instructions.



McGeorge Bundy

Copy to: The Secretary of the Navy  
Commandant of the Coast Guard

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[CORRECTED PRINT]

Public Law 89-658  
89th Congress, S. 2218  
October 14, 1966

## An Act

80 STAT. 908

To establish a contiguous fishery zone beyond the territorial sea of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there is established a fisheries zone contiguous to the territorial sea of the United States. The United States will exercise the same exclusive rights in respect to fisheries in the zone as it has in its territorial sea, subject to the continuation of traditional fishing by foreign states within this zone as may be recognized by the United States.

Fisheries zone  
contiguous to  
U.S. territo-  
rial sea.  
Establishment.

SEC. 2. The fisheries zone has as its inner boundary the outer limits of the territorial sea and as its seaward boundary a line drawn so that each point on the line is nine nautical miles from the nearest point in the inner boundary.

SEC. 3. Whenever the President determines that a portion of the fisheries zone conflicts with the territorial waters or fisheries zone of another country, he may establish a seaward boundary for such portion of the zone in substitution for the seaward boundary described in section 2.

Seaward boundary.

SEC. 4. Nothing in this Act shall be construed as extending the jurisdiction of the States to the natural resources beneath and in the waters within the fisheries zone established by this Act or as diminishing their jurisdiction to such resources beneath and in the waters of the territorial seas of the United States.

Approved October 14, 1966.

### LEGISLATIVE HISTORY:

HOUSE REPORT No. 2086 accompanying H.R. 9531 (Comm. on Merchant Marine & Fisheries).

SENATE REPORT No. 1280 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 112 (1966):

June 20: Considered and passed Senate.

Oct. 3: Considered and passed House, amended, in lieu of H.R. 9531.

Oct. 5: Senate concurred in House amendments.

LIMITED OFFICIAL USEDRAFT NATIONAL SECURITY ACTION MEMORANDUM

TO:           The Secretary of State  
              The Secretary of Defense  
              The Secretary of the Treasury  
              The Secretary of the Interior  
              The Secretary of Transportation  
              The Attorney General

SUBJECT:      Treatment of Foreign Vessels Illegally  
              Fishing within 9-Mile Exclusive Fisheries  
              Zone

Public Law 89-658, which was approved by the President on October 14, 1966, establishes a fisheries zone of nine nautical miles beyond the three nautical mile territorial sea. This legislation applies to the United States, its territories and possessions, but not to other areas under United States administration. Within this fisheries zone the United States exercises the same exclusive rights over fisheries as in the territorial sea, subject to continuation of such traditional fishing by foreign vessels as may be recognized by the United States. Foreign vessels and nationals violating the provisions of this law may be seized, arrested and punished in accordance with federal law.

LIMITED OFFICIAL USE



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The following instructions regarding the enforcement of PL 89-658 are approved:

1. All Governments likely to be directly concerned with the implementation of PL 89-658 have been officially notified by the Department of State. Such notification was completed prior to December 1, 1966; the countries concerned included Japan, Canada, Mexico, the USSR and all parties to the International Convention for the Northwest Atlantic Fisheries.

2. Preliminary to full enforcement under the Act an interim enforcement period commencing December 1, 1966 and ending February 28, 1967 has been established. During this period the following actions will be taken except as provided in paragraph 3:

a. First Offenders - Foreign fishing vessels fishing in the area 3 to 12 miles off the United States coast will be warned that they are violating United States law and will be escorted out of the fishery zone except as noted in paragraph 3 below. Sightings, warnings, and escorting by enforcement units will be reported

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

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to the operational commander and the Commandant, U.S. Coast Guard; information to State, Interior, Treasury, and Defense. The Department of State will pass notice of violation to the country concerned; in case of Soviet vessels notice of violation to appropriate Soviet fishing fleet commanders by Coast Guard. District Commanders will also be made if possible.

b. Second Offenders - Enforcement units will report violations by second offenders to operational commanders and the Commandant, U.S. Coast Guard; information to State, Interior, Transportation, and Defense. No further action is to be taken by enforcement units until instructions have been received. Instructions may include authorization to board and seize vessel.

3. The following exceptions to paragraph 2 above will be in effect during the interim period. Based on actual or

LIMITED OFFICIAL USE

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probable claims of traditional fishing of the four countries listed below, in the areas noted, no action except to identify and report will be taken by enforcement agencies.

a. Mexico - Fishing within the 3 to 12 mile zone off Southern California and Texas.

b. Japan

- (1) Trawling and long-lining in the 3 to 12 mile zone off the State of Alaska in the Bering Sea, the North Pacific Ocean, and the Gulf of Alaska west of 148° West Longitude.
- (2) Whaling in the zone off the Aleutian and Pribilof Islands, and all other areas of the Pacific Coast of Alaska, including the Gulf of Alaska.
- (3) Salmon fishing in the zone off the Aleutians west of 175° West Longitude.
- (4) King crab fishing in the zone in the Bering Sea off the Alaska Peninsula and the Pribilof Islands.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

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(5) Tuna fishing in the zone off Southern California, the state of Hawaii, the Atlantic coast from New York to Maryland inclusive, the Atlantic coast of Florida, and off Texas, Louisiana, Mississippi, Alabama and Florida west of 85° West Longitude.

c. USSR - Fishing within the 3 to 12 mile zone off the State of Alaska.

d. Canada - Fishing within the 3 to 12 mile zone off Alaska, the Pacific Coast and New England states.

4(a). Except as provided in paragraph 4(b) the following procedure shall apply after the interim enforcement period. If there is reasonable or probable cause to believe that a vessel has violated PL 89-658, as defined in paragraph 5, it may be boarded and searched. If enough evidence is found that the vessel has been violating United States law it shall be detained for further investigation.

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If no reason for detaining the vessel is found it shall be permitted to continue on its way.

4(b). Vessels of Japan, Canada, Mexico and the USSR fishing for the stocks of fish or as otherwise noted in the specific areas described in paragraph 3 above will not be boarded and searched but will be sighted and reported as was done during the interim enforcement period. This procedure will continue for the four countries concerned until new instructions are received from the Department of State reflecting the status of negotiations for the recognition of traditional fisheries for each country.

5. (a) For the purpose of this directive, reason to believe that a foreign vessel has violated the law includes foreign vessels having fishing gear in use or rigged for use so as to lead to the evaluated conclusion that the vessel's intention is to commence fishing within the zone or that the vessel has recently completed removing the fishing gear from the waters within the zone.

(b) Whenever foreign vessels are found carrying out fishing fleet support activities in the fisheries zone, the Coast Guard may, where there is reason to believe that

LIMITED OFFICIAL USE

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a vessel has fish that were illegally caught in the territorial sea or the fisheries zone, board such vessel to determine if a violation has occurred. If reasonable cause does not exist, or if upon boarding there is no evidence to support a violation, the foreign vessel concerned shall be informed that it is in the fisheries zone of the United States and is to depart immediately. No force is authorized should an order to leave the fisheries zone be ignored.

(c) The Commandant of the Coast Guard is directed to establish in consultation with other enforcement agencies criteria of proof for the guidance of subordinate commanders in enforcing this law. These criteria should specify that vessels which, under a reasonable interpretation of the evidence, may be deemed to have violated the law inadvertently shall be escorted out of the zone, and shall only be detained to the extent necessary to establish such inadvertency.

6. The distinction between the fisheries zone and the territorial sea is pertinent in carrying out enforce-

LIMITED OFFICIAL USE

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ment procedures. As defined by law, fishing vessels within the territorial sea must be in innocent passage; within the contiguous fishery zone foreign vessels need only refrain from fishing operations as defined above. The doctrine of hot pursuit applies to foreign vessels fishing in the zone.

7. Every effort should be made not to discriminate between countries in the enforcement of this law.

8. All necessary force may be employed in carrying out these instructions provided that there is clear evidence that a violation of the law has occurred.

9. The Departments of State, Interior, Treasury, Transportation and Defense will be kept informed by the most expeditious means of any action taken by enforcement agencies under these instructions.

10. The Commandant of the Coast Guard is authorized to delegate authority to the various Coast Guard District Commanders to take immediate action under these instructions.

11. Treatment of Soviet Bloc fishing vessels in United States territorial waters will continue to be governed by NSAM 265 of October 14, 1963.

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