ownership of the fish in 200 mile zones

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Abstract

The fish in a 200-mile zone are owned by the coastal state, under a completely new concept of tiered jurisdiction which has emerged in a relatively few years. The history of this development, not intended by the authors of numerous acts, is discussed. It is on the basis of this new concept of ownership that economic rent may be collected for the fish in the zone. This disagrees with the theory that economic rent may be collected even if the fish are not owned. Ownership does not have adverse implications for other jurisdictional aspects beyond the territorial sea.

I propose that a whole new concept of ownership of the fish beyond the territorial sea has evolved in the last few years, with roots going back no further than 1945 (1). This concept is different from other concepts of ownership, including that of the wild beasts on land, because it is independent of territoriality, carries with it the right to sell the fish (that is, collect economic rent), the ownership right is strong enough to subjugate the traditional sovereign rights of non-coastal state flag vessels without basically affecting the free status of the high seas, and the ownership can change depending on the movement of the fish. In other words, the coastal state owns the fish found in its zone from the edge of the territorial sea to 200 miles offshore, and may lose this ownership when the fish moves offshore, and does lose this ownership when the fish moves into the zone of another state. Likewise, it owns the creatures of the continental shelf and anadromous fish beyond the zone, but loses that ownership if the beasts move onto another state's shelf or into another state's zone. While the ownership exists it is exclusive, and no one may exploit that fish without the coastal state's agreement, for which economic rent may be collected, and rules may be enforced against foreign flag vessels outside the coastal state's sovereign territory. Yet the ownership of the fish does not affect the ownership of the zone, or of the high seas beyond, or of other sovereign attributes of the flag state of the foreign flag vessels. Finally, the fact that other states may have some rights with regard to the fish, e.g. to be able to fish for the surplus, does not undermine the concept of ownership, any more than do the limits on your rights to dispose of a piece of real property or of a domestic animal deprive you of your ownership.

In 1945 through the Truman Proclamation (2) the U.S. asserted that the resources of the continental shelf appertained (or belonged) to it, although not the shelf itself, but it did note that "the continental shelf may be regarded as an extension of the land-mass of the coastal nation and thus naturally appurtenant to it.

The companion Proclamation on Fisheries (3) did not assert any ownership over fisheries and carefully limited jurisdiction to that prescribed by customary international law, i.e., jurisdiction could be exercised over American fishermen on the high seas, but on multinational fisheries it could be exercised only by international agreement.

This claim to ownership was reinforced in 1953 by the Outer Continental Shelf (OCS) Lands Act (4) which provided that the seabed and subsoil of the shelf "appertain to the United States" and not only were "subject to its jurisdiction" but that the "power of disposition" was in the hands of the U.S. The complete range of "Constitution and laws and civil and political jurisdiction" of the U.S. were extended to the shelf. The Act made it clear that this did not affect the status of the superjacent high seas nor navigation and fishing therein, however.

The parallel Submerged Lands Act (5) in contrast specifically vested "title and ownership" in the several states of both the seabed and the fish within the territorial sea, but did not affect navigation.
The 1958 Convention on the Continental Shelf (6) went on to confer on the coastal state "sovereign rights" to the shelf, for purpose of exploring it and exploiting its natural resources, including its sedentary living resources. These rights were absolute in that they did not require any action by the coastal state for them to exist, and no one else could exercise them or claim the shelf if the coastal state did not. Like the OCS Lands Act, it made it clear that the status of the superjacent high seas was not affected. A clear distinction was made, however, regarding activities "on" the shelf. Foreigners could lay cables or pipes with limited restrictions, and while structures on the shelf were subject to the jurisdiction of the coastal state they did not possess the attributes of sovereignty, such as a territorial sea. Thus, you might place a trap on the shelf to catch swimming fish but not to catch sedentary species, an extremely fine distinction.

The parallel 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas (7) conferred no "sovereign rights" but did delimit certain rights and duties on both the coastal state and other states. It would have allowed limited unilateral action by the coastal state against foreign fishermen on the high seas but even that would have been subject to binding dispute settlement which could have gone against the coastal state.

The Fisheries Convention was effective only for the limited number of states which ratified it, but was never implemented in any event. It soon became clear that the limited rights accorded the coastal state were insufficient for coastal state interests, particularly the provision that its measures "not discriminate" against foreign fishermen, and that the coastal states wanted much more than the custodial type authority recognized in the Fisheries Convention. The Shelf Convention, on the other hand, was universally recognized as applicable to all states and was implemented with regard to even those states which have never ratified it. The Shelf Convention, of course, in effect recognized ownership of the natural resources.

In 1964 the U.S. made it illegal for foreign fishermen to "engage in the taking of any Continental Shelf fishery resource which appertains to the United States" even when the foreign fishermen were on the high seas, and provided for enforcement and penalties in exactly the same way that it applied these provisions to foreign fishing in its territorial sea (8). The ownership by the U.S. of the fish in the territorial sea is a clear attribute of the sovereign, even though for domestic purposes it was vested in the several states. To apply these provisions to shelf resources on the high seas must then be an attribute of the ownership of the shelf resources under the "sovereign rights" recognized by the Shelf Convention. The right of the U.S. to take such action on the high seas, and other states as well, was disputed by some states, but in a few years gradually came to be accepted by the vast majority if not universally. This must be taken as recognition of special rights of the coastal state which derive from the ownership of the resources in contrast to the more limited "jurisdiction" of the coastal state over installations, and the very limited management authority but clearly no ownership under the Fisheries Convention. This Act essentially thus became the first modern derogation of the flag state's "exclusive jurisdiction" on the high seas, recognized universally under customary international law and the 1958 Convention on the High Seas (9).

In 1966 the U.S. asserted its fisheries jurisdiction over the high seas zone 3 to 12 miles from its coast, maintaining that it had "the same exclusive rights in respect to fisheries in the zone as it has in its territorial sea..." (10). (The rights it has in its territorial sea in respect to fisheries are ownership rights.) The 1964 Act mentioned above by its provisions also applied to this high seas zone, the U.S. never questioning that it was high seas, and thus non-shelf fisheries became subject to U.S. laws and penalties on the high seas. The U.S. asserted that such jurisdiction was now recognized by customary international law, and while this, too, was disputed by some it also came to be widely accepted. In 1968, this jurisdiction was broadened to include fisheries support activities, not just fishing (11).

During the 1970's pressure mounted to assert similar jurisdiction over fisheries to 200 miles. This was vigorously opposed on the grounds that it would be contrary to international law, that it would seriously endanger high seas freedoms, particularly navigation, that it could only be accomplished by universal acceptance of a Law of the Sea (LOS) treaty that was then being negotiated, that it would undermine those negotiations and endanger other LOS interests which were intricately tied up in the "package" negotiations, and that it would impair our distant-water fisheries. A very careful attempt was made to draft bill H.R. 200 in such a way that it would meet or obviate those objections. In any event, political pressure was too strong to prevent passage or to allow for a veto, and the Fisheries Conservation and Management Act (FCMA) (12) was enacted. Even then, a very carefully constructed Presidential statement was issued in a last-ditch attempt to mitigate the anticipated adverse impacts. However, now, only six years later, it is common coastal state practice that all laws covering fishing within the territorial sea apply to fishing in 200-mile zones, or, in other words, that the notion of ownership of the fish in the territorial sea, which is undisputed, applies to the fish in the 200-mile zone as well.

The fisheries portions of the LOS negotiations were substantially completed at the time of enactment of the FCMA. The President recognized that the FCMA was "generally consistent with the consensus emerging at the
The question, then, is, does the FCMA assert ownership or some more limited form of jurisdiction over the fishes in the U.S. 200-mile zone? If it does not assert ownership, in turn, does current customary international law allow it to be amended to assert ownership? The question of the desirability of doing so is a separate one. Or, if it does assert ownership, is this consistent with current customary international law?

An effort was made, as noted, to construct the FCMA in a way that strictly limited the assertion of U.S. jurisdiction. Nonetheless, it uses terms such as "fishery resources of the United States" in a broad sense and "Continental shelf fishery resources of the United States" in a similar fashion. It provides for exclusive "conservation and management of fishery resources" by the United States in the 200-mile zone and looks to an LOS treaty which will also provide for "conservation and management of fishery resources." It provides for foreign fishing in the zone but only if the foreign nation acknowledges the "exclusive" authority of the United States and then only for such allocations as the U.S. determines and under its rules and conditions. It provides for exclusive enforcement by the U.S. and penalties for violations, including the possibility of jailing. (16) It reaffirms the U.S. authority over shelf fishery resources, even beyond the zone, and asserts authority over anadromous species throughout their migratory range, even beyond the zone. It may be significant, however, that it completely waives this authority while the anadromous species are in another nation's zone or territorial sea.

Thus, it would appear that the FCMA carries forward the same sort of jurisdiction found in the 1964 and 1966 Acts with regard to the continental shelf and specified areas beyond the territorial sea, and expands on this jurisdiction in demanding formal foreign recognition and acceptance of a more expansive management and penalty regime. And the tiered expansion is not only real in the sense of a larger defined zone but the non-zone type authority over shelf resources is extended to anadromous species as well.

Like the previous Acts, the FCMA maintains the high seas status of the zone and recognizes that there are other legitimate uses of the area. However, it states as a matter of policy that such legitimate uses may not be impeded or interfered with "except as necessary for the conservation and management of fishery resources"--which may be a significant indication of the strength of the authority being asserted, that is, ownership of those resources.

The FCMA also requires the collection of fees from foreign fishermen permitted to fish in the zone. The original Act called for them to be "reasonable," but a 1980 amendment (17) eliminated that provision. Instead, the amendment requires the aggregate fees to be at least equal to the same proportion of the total cost of implementing the Act as the foreign catch in the zone is to the total catch in the zone and in territorial waters. That "cost" includes but is not limited to "conservation, management, research, administration, and enforcement.

This is turn leads to the question of whether such fees should be limited to the actual costs of implementing the Act or may go beyond that to encompass "economic rent" or a "profit" for the U.S. Treasury? It would seem that the answer depends on the ownership question. If the authority of the U.S. is only to manage and conserve the resources of the area in question, it would appear that the U.S. may only assess custodial fees to cover the costs of doing so. If, however, the U.S. owns the fish, it would appear that the U.S. could assess whatever fees that the market will bear, or even as the proprietor to set the fees for its property at calculated levels higher than its cost to produce a profit just as a business does. One might also say that the U.S. could set the fees even higher, even if this resulted in a diminution of revenue or eliminations of foreign fishing and the fees actually paid if by doing so other benefits, or non-monetary profits, were realized. However, even if the U.S. owns the fish, does international law permit it to set the fees to produce a profit, either monetary or non-monetary?

There seems to be a consistent pattern from 1945 to the present which indicates that the coastal state owns the fish. The coastal state as the sovereign owns the fish in its territorial sea. There seems to be little question that the coastal state similarly owns the continental shelf and its resources, both living and non-living. In its domestic legislation, the U.S. has consistently treated itself as the proprietor of the fish of the territorial sea and the living resources of the shelf. It has extended this authority to the zones beyond in a consistent pattern which makes no distinction between the fish of the territorial sea, the living resources of the shelf, and the additional fish over which it has asserted authority, with one notable exception. Authority over anadromous species is waived once they are in the territorial sea or zone of another sovereign, indicating that the
ownership of the beasts goes in part with the area where found. At the same time, the authority does not encompass ownership of the zone beyond the territorial sea, or of the waters superjacent to the continental shelf, a new form of tiered jurisdiction in which ownership of the fish is a separate question from ownership of the territory.

It is generally accepted that customary law affirms the coastal state’s ownership of the shelf and its resources. The language of the LOS Convention carries forward much of the language of the 1958 Convention regarding the shelf, including the term “sovereign rights” as a key. It uses the same key term with regard to the fish of the zone. The authority of the coastal state in the zone is not as absolute as it is on the shelf in the LOS text, but it does include a very broad and almost totally discretionary authority over the fish of the zone. The Convention’s provisions on the zone were carefully constructed to establish that it was different from the territorial sea (with particular reference to navigation), but having done so it also then established the details of the fisheries authority in a manner which authorizes the coastal state to do virtually as it pleases with the fish in spite of numerous provisions which imply the contrary.

Just as the U.S. practice beyond the territorial sea appears to be based on ownership, other states generally follow a similar practice. In spite of the many words which have been spoken of acceptance of the provisions of the Convention, including those provisions which imply limitations on the coastal state’s authority, the universal practice is to apply the fisheries authority in the zone in an absolute manner. Thus, foreign fishermen are admitted to the zone when it serves the purposes of the coastal state to do so, not because there is perceived a real obligation to do so, and they are excluded when it serves the purposes of the coastal state to do so. The U.S. perhaps more so than any other state has proclaimed the obligation to admit foreign fishermen to the zone, but its practice in access, allocations, and management has been based more and more on its own perceived interests and has been applied in a totally discretionary manner, just as other states that do not pay as much lip service to the obligations of the international law. Thus, one may conclude that customary international law recognizes the proprietary or ownership interest of the coastal state in the fish of the zone as well as of the territorial sea and the living resources of the continental shelf, and the obligations set forth in the Convention will not stand in the face of the perceived contrary interests of the coastal state in exercising its proprietary or ownership rights. However, it is also quite clear from both state practice and the LOS Convention that this ownership does not extend to the zone itself.

Fisheries may be leading the way in establishing resource ownership in the 200-mile zone. To just cite one example of another natural resource that appears headed in that direction, the Ocean Thermal Energy Conversion Act of 1980 (18) establishes clear jurisdiction over OTEC facilities off the U.S. coast but beyond the territorial sea. It establishes criminal penalties for anyone damaging a licensed OTEC facility, which may well be outside the territorial sea at the time, and it extends all U.S. law to such facilities. However, the fees under the Act are limited to recovery of administrative costs, not economic rent as is possible under the FCMA. Under the LOS Convention, both energy and fisheries are eligible for the same treatment, so OTEC can be expected to follow in the footsteps of fisheries if it proves economically successful.

I note that we have moved very rapidly, after centuries of narrow limits, to 200 miles of control over fisheries. In this rapid development there inevitably were voids and gaps that had to be filled. People, at least in the United States, tried to be circumspect in what they were claiming in extending fisheries jurisdiction so as not to attach territoriality to it. While they, and the negotiators of the LOS Convention, succeeded in the latter, sometimes they did other than what they thought they were doing, and state practice in the implementation of 200-mile fisheries jurisdiction reinforced this. What they did inadvertently was to create the notion of coastal state ownership of the fish in the 200-mile zones, completely independent of ownership of the zone itself, or a completely new form of tiered jurisdiction which can accommodate ownership of the fish, and other natural resources in varying degrees, without ownership of the territory of the zone itself. That this is taken as a given by many people is reflected in the words of then FAO Assistant Director General for Fisheries Ken Lucas when he referred in 1980 to "the transfer of the fish stocks from the cold anarchy of common property status to national ownership", and, with regard to the fishery problems of developing countries, "now they own it all, out to 200 miles." (19)

In other words, except for the few states which claimed 200-mile territorial seas, territorial jurisdiction was maintained essentially unchanged during the last few years while most coastal states established 200-mile fisheries jurisdiction; but there was a change. What was that change? Practical ownership of most of the fish of the high seas, and through state practice this has changed gradually, but really quite rapidly, into de jure ownership.

Before looking further at the question of the collection of economic rent, I should address the question of the right of access of foreign fishermen to the surplus of the zone, provided for by both the FCMA and the LOS Convention. I have heard it argued that this right of access
qualifies the rights of the coastal state in such a fashion as to preclude the concept of ownership of the fish. First of all, the right of access is itself qualified in the favor of the coastal state. It has the sole discretion to determine if there is a surplus in the first place, and if it does so there are essentially no constraints on its choice of which foreign state(s) to allocate to, the nature of individual allocations, or on the rules and conditions it may apply to the foreign fishing for the surplus, including the collection of fees. Secondly, it is not uncommon for ownership rights to be qualified. If you own a house in a residentially zoned area, you probably cannot replace it with a gas station, keep cows in the back yard, take in an unlimited number of boarders, turn it into a bordello, and so on, but you still own the house. I do not think that this very limited qualification detracts from the tiered ownership of zone fish which has been clearly established in recent years through numerous legal acts and general state practice.

There appears to be no pattern of assessing fees for fishing in the zone on the basis of costs of administering it. On the contrary, they appear to be based on what the coastal state considers to be its due, or what the traffic will bear. Even coastal states whose costs are minimal or non-existent collect fees, often substantially. The LOS Convention also recognizes the right of the coastal state to collect "fees and other forms of remuneration" and the only limitation is that in the case of developing countries they "may consist of adequate compensation in the field of financing, equipment and technology relating to the fishing industry" which appears to be de minimis. Thus, customary international law allows for the collection of economic rent and not just the cost of administering the zone. The "at least" language of Section 204(b)(10) of the FCMA as amended appears to allow the U.S. to collect economic rent at present, although it does not require it. The original provision merely stipulated factors to be taken into consideration in setting fees, which itself implied the ability to seek economic rent as part of the fee system, but the 1980 amendment relegated these factors to part of the determination of the costs to be covered. This may argue against allowing for economic rent, but that may be offset by the elimination of the 'reasonable' limitation on fees by the amendment. Even if the Act is construed so as not to allow the collection of economic rent, there is no reason in international law to prevent it from being further amended to allow it.

It is argued that recognizing coastal state ownership of the fish in the zone will assist in the transformation of the zone into a territorial sea, with adverse impacts on other interests in the zone, particularly navigation. This fear does not appear to have any support in state practice. On the contrary, the whole pattern of developments since 1945 indicates that it is not only possible but workable and desirable to establish various forms of tiered jurisdiction beyond the territorial sea, including ownership of resources, without going beyond that stated jurisdiction. The 1958 Shelf Convention, the LOS Convention, the domestic U.S. legislation, and the practice of a majority of states in administering their "zones" indicate that "creeping jurisdiction" in the sense of territoriality does not follow from limited but widely accepted jurisdiction, even if it is as strong as "ownership" of the resources of the zone. On the contrary, such developments have in fact halted the very limited trend to claim 200-mile territorial seas and even show indications of rolling them back, which will happen if states claiming 200-mile territorial seas become parties to the Convention.

It is interesting to note that the dire consequences predicted in 1976 from enactment of the FCMA have not come to pass. It did not result in "creeping jurisdiction" establishing widespread 200-mile territorial sea claims. International law quickly accommodated to 200-mile fishery jurisdiction, if it had not already done so by April 13, 1976. Non-related high seas freedoms have not eroded any more than they were already eroded, as in the case of marine scientific research. In the case of fisheries, in any event, it was not necessary to have jurisdiction accepted only as a part of an LOS package, and the severability of fisheries did not impair other interests in the package. The LOS negotiations did not unravel because of the FCMA. On the contrary, there was wide acceptance of and support for the U.S. action and dozens of nations followed suit without abandoning or impairing the negotiations. It is true that U.S. distant-water fisheries interests were impaired, as predicted. But that was not difficult to predict in the face of the trend toward coastal state fisheries control. Passage of the FCMA only speeded up the process, it didn't change the substance at all. The LOS difficulties on other questions, e.g. mining, stem from their own problems and other political considerations and not from the U.S. 200-mile limit. In short, the world has come to accept tiered jurisdiction as a given, and there is no reason to believe that the concept of ownership of resources should change this.

I have seen adverse comments about the notion of coastal state "ownership" of fish in the 200-mile zone based on fears that this would undermine the obligations concerning conservation, such as found in the LOS Convention. (20) I take it that the authors of such comments have not perceived the new "tiered" type of jurisdiction conveying ownership of the fish while they are in the zone such as I am suggesting exists under customary law and state practice. Under such a concept the ownership of the fish no more absolves the obligation for conservation than the
ownership of a house obviates the obligation to observe zoning and health requirements.

It has also been argued that if we own the fish other states will be induced to claim ownership of other attributes of the ocean, such as straits, which will have an adverse impact on other vital interests such as navigation. That might be valid if we argued that we owned the fish, not their zone. Even some of the few states which claim a territorial sea and thus ownership of the zone themselves limit their claim by maintaining that it does not apply to navigation. Thus, everyone owns the fish, whether they maintain a zone or a territorial sea, and navigation is not impaired by the ownership (except possibly for fishing vessels, but that is a different dispute).

But, it is argued, if you can collect economic rent for the fish, why should you not collect economic rent for the value of being able to pass, or for the value of the lost opportunity to put the straits to other uses? Why not, then, carry this argument further and apply it to the entire zone? We have already seen that the development of fisheries jurisdiction is part of a long-standing pattern of the development of tiered jurisdiction under which ownership of the fish does not carry with it ownership of the area.

Ah, but straits are different, they have a unique value in linking one portion of the ocean to another, and often cannot be bypassed as a zone might be. Thus the strait state, as the farmer, may argue that if you want repeated access to my land you can be asked to pay for the right-of-way or passage will be denied. There are two faults to this argument. One is that a strait is like a modern highway, not a private field. Highways are open to all comers, and passage is their purpose. And that purpose is supported by the common weal, for it would be impossible to exist without highways. The strait state itself depends on highways. If the limited number of cases where highway tolls are collected, it is because of the special costs of construction or other aids to passage, and the tolls are related directly to those costs. Thus, the only fees that might be collected for straits passage would be to cover the costs of maintaining them for safe navigation, such as dredging or beacons. That would be far different from economic rent. However, the LOS Convention does not even allow for such charges except by agreement.

The second fault is that even on private land the common law right of passage can be established by practice, and this easement certainly has been established for all straits essential to international navigation. And the world community has a vested interest in maintaining this right, for all nations, even landlocked, depend to a significant degree on ocean-borne commerce and communication. Thus, the collection of even maintenance or safety management fees would be strongly resisted, much less economic rent. The question of passage through straits is simply a different order from the question of exploiting fisheries.

Then, it is argued, the straits fees could be expanded to include fees for other things, such as overflight, satellite spots, and marine scientific research. But each of these falls into the already discussed tiered pattern of jurisdiction, and each would run up against the same question of vested world community interests or has already been settled in the same way fisheries has, unfortunately including research where economic rent is not provided for but other tiered benefits to the coastal state are in return for consent to conduct research in the zone.

It is now recognized that the U.S. may collect economic rent in the process of allowing foreign access to the surplus fish in the U.S. zone. (21) However, there appears to be on the part of some a feeling that this stems not from the ownership of the fish, but from the right to control the hunting for the fish. Under this view, the U.S. is not "selling" the fish but only the opportunity to take them. I believe that this concept may be dangerous, giving the coastal state non-territorial control over foreign flag vessels on the basis of "rights" rather than on the basis of property, and that it fails to take adequate account of the development of the tiered concept as discussed above. I hope that discussion has shown that the ownership of the fish can be treated as a quite discrete matter, and that it has gradually but rapidly evolved through a combination of state practice and international action from a beginning that had no concept of ownership in mind in order to fill a void created by the new concept of extra-territorial control of fishing.

I question whether it is legal to sell a tangible good (such as fish) that is not owned, especially on a non-territorial basis. The selling of common property, which the fish might be considered to be until captured, is also questioned. I also question the notion of selling the opportunity to take the non-owned or common property, the jurisdiction exercised by the coastal state smacks of a trusteeship. In this case the trustee should be constrained to collect only management costs in the exercise of the trust, not economic rent. If you try to collect economic rent while you are an international trustee in a non-territorial situation, you become a sort of international Robin Hood. (22)

 Granted that the form of ownership I am discussing is somewhat different from conventional ownership because the dumb fish can forego your benevolent ownership and pass to someone else's ownership by swimming into his zone.
However, such a concept relates to the special circumstances involved in collecting economic rent outside the national territory for property that moves, and because it is new or different does not mean that it has not developed in a short period into customary international law.

One other aspect ought to be discussed before closing. That is the traditional concept that a wild animal is not absolutely owned until it is reduced to possession through capture or killing. Ancient law held that the sovereign "owned" animals in their wild state, if their range was limited to the sovereign's territories. The notion today of state "ownership" of wild animals may be shorthand for the exclusive control exercised over hunting and fishing opportunities. I find this wanting when applied to the collection of economic rent for fishing in the zone and even beyond because of the latter's non-territorial nature. The concept of ownership of wild animals was directly related to the sovereign ownership of the territory, and if the beast passed into another's sovereign territory the "ownership" passed with it. That concept is not valid in considering non-territorial areas. Rather a new concept of ownership has evolved to cover the void in dealing with the non-territorial areas of the 200-mile zones.

In short, the collection of economic rents for fisheries will not lead to the dire consequences that have been predicted. The collection of such rents is already sanctioned in customary international law and in domestic law, based on a newly evolved concept of tiered ownership of natural resources in non-territorial areas. Whether they should be collected, and if so how much, is a different question that brings into play many factors that do not bear on the question of whether they can be collected.

1) The views expressed herein are those of the author, and do not necessarily reflect those of the National Marine Fisheries Service or of the U.S. Government.

2) Proclamation No. 2667, Sept. 28, 1945; 10 Fed. Reg. 12303

3) Proclamation No. 2668, Sept. 28, 1945; 10 Fed. Reg. 12304

4) Public Law 212-83, August 7, 1953

5) Public Law 31-83, May 22, 1953

6) 15 UST 471, TIAS 5578

7) 17 UST 138, TIAS 5969

8) Public Law 88-308, May 20, 1964

9) 13 UST 2312, TIAS 5200

10) Public Law 89-658, October 14, 1966

11) Public Law 90-427, July 26, 1968

12) Public Law 94-265, April 13, 1976–The title was changed to the Magnuson Fishery Conservation and Management Act (MFCMA) by the 1980 amendment, note 17 below.

13) Statement of Gerald R. Ford, April 13, 1976


15) A/CONF.62/F.78, 28 August 1981 - There have been numerous drafting committee changes to this text, and this process continues at this writing, but the substance of the fisheries provisions has been unchanged for many years.

16) The LOS Convention does not allow for jailing except by agreement, and there are currently legislative proposals to change this provision of the FCMA, in keeping with long-standing U.S. policy. Jailing would still be allowed under the FCMA and the LOS Convention for such offenses as assault on a fisheries enforcement officer in the zone.

17) Public Law 96-561, December 22, 1980

18) Public Law 96-320, August 3, 1980

19) K.S. Lucas, Text of address to the International Seafood Conference, FAO, Rome, 12 November 1980


21) Letter from Theodore G. Cronmiller, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, to William H. Stevenson, Acting Assistant Administrator for Fisheries, NOAA, August 24, 1981

22) Sullivan's Law!