

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1672 SCOMM 65: HOUSE SPEC. COMM. ON FOREIGN TRADE, 1989-90 1240

SPECIAL COMMITTEE ON FOREIGN TRADE
MARCH 30, 1989
12:00

MEMBERS PRESENT:

REP. GEORGE JACKO
REP. MIKE DAVIS
REP. CLIFF DAVIDSON
REP. JOHNNY ELLIS
REP. VIRGINIA COLLINS
REP. BILL HUDSON

MEMBER ABSENT:

REP. BETTE CATO

COMMITTEE CALENDER:

HJR 27: Relating to compensation for high seas salmon interception.

A presentation by Christie Choko Gissberg on Japanese business protocol.

PREVIOUS ACTION

ACTION NARRATIVE

TAPE 4, SIDE 1

Number 000

The meeting was called to order by Chairman Jacko at 12:07 p.m. Members present were Representatives Davidson, Ellis, Davis, Cato, and Collins. Rep. Hudson was absent.

Chairman Jacko opened the meeting by announcing that one resolution was on the calender along with a presentation of Japanese business protocol by Christie Gissburg.

HJR 27 sponsored by Rep. Zawacki, an act relating to high seas interception of salmon, was first on the agenda. Rep. Zawacki stated that it is a continuing concern to all Alaskan's, to conserve the states fisheries. HJR 27 asks the President of the United States to bring in action in front of the appropriate International tribunal, for recovery of damages and income loss to the Commercial Fishermen of Alaska, that is a consequence of illegal highs seas interception of Alaskan salmon.

Rep. Zawacki: Secondly, the President is asked to renegotiate agreements with Japan and Korea, and to negotiate a treaty with Tiawan, (which presently doesn't exist) to provide procedures whereby the state can recover damages from high seas interception. Finally, Congress is asked to establish a fund to reimburse Alaskan fisherman and the State of Alaska for loss of income. The fund is to be financed by a tariff on fisheries products, originating in those nations whose fisherman are intercepting Alaskan salmon on the high seas.

Rep. Zawacki: Since most of the West coast states are being affected by high seas interception it is important that they be notified. SEA COPS organization estimates that in southeast Alaska, over twenty five million dollars was lost to fishermen, eight million to processer employees, and fifty four million to processors themselves. The State Department actually arrested two fish brokers who had contracts for twenty four million dollars to produce salmon, that had been illegally caught in the high seas.

Rep. Zawacki: The State of Alaska has known for years of high seas interception of salmon. Yet it has not been reimbursed for any stolen fish.

Number 0109

Rep. Jacko asked if this resolution may be raising the hopes of fishermen, in that they might expect future compensation when none may be available. Rep. Zawacki replied that the Alaskan Congressional Delegation was in favor of the resolution and would promote the idea.

Number 0129

Rep. Davis: We need to be careful how legislation is phrased. We need to consider existing treaties. Rep. Davis would like the Dept. of Fish & Game to speak on HJR 27

Number 0170

Rep. Hudson: At a minimum HJR 27 would send a message to future international treaties. Spoke in favor of HJR 27.

Number 0127

Rep. Zawacki: The Federal government has confiscated and documented vessels on the high seas. This resolution is similiar to a previous one that was passed by both houses and forwarded to Congress. It is time that Alaska be compensated for known and future losses.

Number 0230

Dave Harrision, legislative aid to Rep. Zawacki: We need to tell foreign fishing fleet that Western Alaska has been damaged. We must tell the world that it is wrong to steal Alaskan fish on the high seas.

Number 0266

Dean Paddock, Excutive Director of the Bristol Bay Fishermen's Association: Authorized to speak on behalf of The Western Alaskan Cooperative Marketing Association, the Independent Fisherman Marketing Association and the Bristol Bay Herring Cooperative. Spoke in favor of the resolution. Views the effort as a totally non-partisan issue, and that compensation is not as important as sending out the message that American fishermen are weary of being taken advantage of .

Number 0368

Rep. Hudson moved that HJR 27 be moved out of committee with individual recommendations.

Number 0384

Christie Choko Gissburg began her presentation on Japanese business protocol.

Gissburg: It is essential in doing business with the Japanese to understand Japanese culture. Most American business people believe that the Japanese business person embraces western standards in business transactions. However, this is not so. The Japanese remain firmly committed to their culture and this presents problems when dealing with foreigners. Although Japan leads the world in international trade, Japanese business people are far from modern.

Gissburg: Japanese are famous for group loyalty. Is is so firmly established, that it is the subject of a famous proverb: You don't have to fear a red light if everyone crosses at once. There exists many opinions as to why the Japanese are so group organized. Gissberg believes that thousands of years of rice farming may have contributed to this. With no machinery and each rice plant having to be planted individually in the rainy season, it required much cooperation between family and friends. Selfishness could not be tolerated, if the effort was to succeed. The power of the group was far and above that of the individual.

Gissburg: The Japanese businessman employs the same work ethic. No new ideas are used until they are informally tested on other members of the group. As long as the company

prosper than everyone succeeds. Americans are too obsessed with individual achievement. For the Japanese the group is connected to the company. Government bureaucrats have a direct line for special appointments to companies when they retire from their government job. It is like the owner of company is the father, the union officials are mothers, and the employees are in the role of the children. In any case, there is no doubt that Japanese company is like a family.

Gissburg: Outside of their groups, Japanese people are not friendly. Family, colleagues, and groups offer enough support and friendship. No more group relationships are necessary. It is possible to ignore one who is not a member of a group. Japanese are not talkative. They believe in the proverb: silence is golden. This keeps peace and avoids arguments. This fear of not causing trouble can prevent businessmen from not speaking up at meetings. However, outside the group they can become talkative and even gossipy.

Gissburg: Because Japanese people don't like to show disagreement, yes can mean no. The Japanese businessman will say he is busy when he actually means no. To say yes, is to say it without meaning. Another Japanese custom is to always go out after a business meeting for a few drinks to find out if that yes, was really a no. Most Japanese decision making is made after hours, when real negotiating begins.

Gissburg: The Japanese businessman needs consensus. It takes at least four or five business meetings to begin to think of making a decision. Never use a negative word. The slightest use of a negative word will end a conversation. A personal relationship is very valuable to the Japanese. The American businessman may need to use an intermediary to establish a personal or business relationship.

Gissburg: Dressing properly is very important: shirts must be dry cleaned and pants pressed. Merchandise must have the same quality and care to be attractive to the Japanese consumer.

Number 0800

Rep. Collins: What role does women play in the Japanese business world? Gissburg: American business women are well respected. The Japanese realize that in order for the American business woman to succeed, she must be very qualified. However, women must always pay homage to Japanese customs. Don't be overly aggressive, and always walk two steps behind male leaders.

Number 0878

Rep. Hudson: Is there training centers in Japan that

specialize in business protocol for foreigners. Gissburg:
There are many available.

Number 0910

Rep. Jacko: Does the Japanese treat aboriginal Alaskans preferentially? Gissburg: Yes, as long as they have an appropriate title. One's business card is most essential. You cannot go to Japan without an appropriate title. It does not matter who you are, what you are is more important. If aboriginal Alaskans respect these customs, then because of similiarities, he will be treated preferentially.

Number 0940

Rep. Ellis: What do Japanese tourists expect when they come to Alaska? Gissburg: Japanese tourists realize that Alaska does not have well developed accommodations. The Japanese people place great importance on souvenirs. The general feeling is that Alaska does not have sophisticated souvenirs and this is very disappointing to the Japanese tourist.

Rep. Jacko adjourned the meeting at 1:15 p.m.

HOUSE SPECIAL COMMITTEE ON FOREIGN TRADE

- (1) CALL MEETING TO ORDER
- (2) NOTE MONTH, DAY AND YEAR *March 20*
- (3) NOTE TIME OF DAY *12*
- (4) NOTE MEMBERS PRESENT AND EXCUSED, AND ANY OTHER *Rep Collins* LEGISLATORS PRESENT
- (5) TODAY'S CALENDAR

WE ONLY HAVE ONE ITEM OF LEGISLATIVE BUSINESS SCHEDULED TODAY, AND THAT'S HJR 27, RELATING TO COMPENSATION FOR HIGH SEAS SALMON INTERCEPTIONS. I HOPE WE CAN DEAL WITH IT FAIRLY QUICKLY SO WE CAN GET ON TO THE PRESENTATION BY MS. GISSBERG. IF IT BEGINS TO RUN TOO LONG, WE'LL NEED TO HOLD IT OVER.

- (6) (IF ZAWACKI OR HANLEY AREN'T IN THE ROOM) ASK IF THERE IS ANYBODY PRESENT TO TESTIFY ON BEHALF OF HJR 27.
- (7) INTRODUCE GISSBERG....

I MUST ADMIT I ONLY KNOW TWO THINGS ABOUT CHRISTIE CHOKO GISSBERG, AND THAT IS THAT SHE'S MIKE DAVIS'S JAPANESE LANGUAGE TEACHER AND SOMETHING OF AN EXPERT ON THE SOCIAL AND BUSINESS CUSTOMS OF JAPAN. I HOPE WE'LL ALL LEARN A LITTLE MORE ABOUT HER TODAY, AND I WANT TO THANK HER FOR TAKING THE TIME TO SHARE WITH US SOME OF HER KNOWLEDGE ABOUT DOING BUSINESS WITH THE JAPANESE. WE APPRECIATE IT, AND I KNOW WE'RE ALL LOOKING FORWARD TO YOUR PRESENTATION.....

MAR 8 1989

AK TOURISM JNU
REFILE ANC AHG

RE TO TX 45331"
POM 08008 ANCHORAGE ALASKA 15 02-27 1130A AST
PMS REP GEORGE JACKO
POUCH V
JUNEAU AK 99811

BRISTOL BAY NATIVE CORPORATION SUPPORTS THE ADOPTION OF HOUSE
RESOLUTION #27.

DONALD F. NIELSEN, EXECUTIVE VICE PRESIDENT
BRISTOL BAY NATIVE CORPORATION
800 CORDOVA, SUITE #2
ANCHORAGE, ALASKA 99501

REFILE ANC AHG

AK TOURISM JNU
))))
TOD FEB 27 89

1 IN THE HOUSE

BY ZAWACKI AND HANLEY

2

HOUSE JOINT RESOLUTION NO. 27

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

Relating to compensation for lost reve-

6

nue and income caused by high seas

7

interceptions of Alaskan salmon.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9

WHEREAS salmon are the mainstay of the Alaska fishing industry and are

10 the primary source of income for Alaska fishermen; and

11

WHEREAS the Alaska salmon fishery is a direct and indirect source of

12 revenue for the State of Alaska; and

13

WHEREAS salmon constitute the primary economic base of many coastal

14 and river communities of the state and are the principal component of the

15 subsistence economy of most villages in the state; and

16

WHEREAS the Yukon-Kuskokwim region of western Alaska is one of the

17 most economically disadvantaged areas of the United States where commer-

18 cial fishing is the single most important source of cash income, yet

19 produces an average of less than \$7,000 per fisherman per year; and

20

WHEREAS poor salmon runs in Southeast Alaska and the Kvichak River of

21 Bristol Bay in 1988 and the increased incidence of net marked salmon in

22 Southeast Alaska and Bristol Bay have focused attention on the high seas

23 interception of Alaska salmon; and

24

WHEREAS Japan, South Korea, and Taiwan conduct major high seas fisher-

25 ies for squid, groundfish, and other types of fish and these fisheries

26 intercept salmon from Alaska and other Pacific Coast states; and

27

WHEREAS it is estimated that the Japanese land-based and mothership

28 fleets alone could be intercepting as many as 2,000,000 salmon each year;

29 and

1 WHEREAS there have been recurring reports of large quantities of
2 illegally harvested salmon being sold in Europe and Asia; and

3 WHEREAS the National Marine Fisheries Service has concluded that an
4 enormous volume of salmon caught by foreign fishermen is being sold on
5 European markets; and

6 WHEREAS the illegal harvest and sale of Alaska salmon by foreign
7 fishing fleets are undercutting international sales of salmon by Alaska
8 fishermen and are having significant adverse economic effects on residents
9 of Alaska; and

10 WHEREAS the fishermen of Alaska cannot afford the direct loss of
11 salmon destined for Alaska fisheries and the indirect loss of income due to
12 unfair competition from the illegal sale of salmon that Alaska fishermen
13 otherwise would have caught; and

14 WHEREAS the State of Alaska cannot afford the loss of revenue it
15 derives from the salmon fishery and the increased cost of social services
16 to economically depressed salmon fishing communities; and

17 WHEREAS illegal high seas interceptions of Alaska salmon deprive the
18 State of Alaska of an economic return on its substantial investment in the
19 state's fishing and processing industries; and

20 WHEREAS it is difficult for individual fishermen or the State of
21 Alaska, without the cooperation of the federal government, to obtain com-
22 pensation for the loss of the Alaska salmon resource caused by foreign high
23 seas fishing fleets; and

24 WHEREAS customary international law recognizes that all nations have a
25 duty to cooperate in conserving salmon stocks on the high seas; and

26 WHEREAS the federal government has an obligation to protect the inter-
27 ests of its citizens and the states from the illegal actions of foreign
28 nations and citizens of those nations;

29 BE IT RESOLVED that the Alaska State Legislature respectfully requests

1 the President of the United States to bring an action before the appropri-
2 ate international tribunal for recovery of damages on behalf of the State
3 of Alaska and the fishermen of Alaska for revenue and income lost as a
4 consequence of the illegal high seas interception of Alaska salmon; and be
5 it

6 FURTHER RESOLVED that the Alaska State Legislature respectfully re-
7 quests the President of the United States to renegotiate existing fishery
8 treaties and agreements with Japan, South Korea, and Taiwan to provide
9 procedures whereby individual fishermen, fishermen's associations, and the
10 states may recover damages from foreign fishing companies for income and
11 revenue lost due to high seas interception of salmon in violation of the
12 treaty or agreement; and be it

13 FURTHER RESOLVED that the Alaska State Legislature respectfully re-
14 quests the Congress to establish a fund to reimburse Alaska fishermen and
15 the State of Alaska for the income and revenue lost by the high seas inter-
16 ception of Alaska salmon and that the fund be financed by a tariff on
17 fishery products originating in those nations whose fishermen are inter-
18 cepting Alaska salmon on the high seas.

19 COPIES of this resolution shall be sent to the Honorable George Bush,
20 President of the United States; the Honorable Dan Quayle, Vice-President of
21 the United States and President of the U.S. Senate; the Honorable James A.
22 Baker, III, U.S. Secretary of State; the Honorable Robert Mosbacher, U.S.
23 Secretary of Commerce; the Honorable Jim Wright, Speaker of the U.S. House
24 of Representatives; the Honorable George Deukmejian, Governor of the State
25 of California; the Honorable Leo T. McCarthy, President of the Senate of
26 the State of California; the Honorable Willie Lewis Brown, Jr., Speaker of
27 the Assembly of the State of California; the Honorable Cecil D. Andrus,
28 Governor of the State of Idaho; the Honorable C. L. Otter, President of the
29 Senate of the State of Idaho; the Honorable Tom Boyd, Speaker of the House

1 of Representatives of the State of Idaho; the Honorable Neil Goldschmidt,
2 Governor of the State of Oregon; the Honorable John Kitzhaber, President of
3 the Senate of the State of Oregon; the Honorable Vera Katz, Speaker of the
4 House of Representatives of the State of Oregon; the Honorable Booth
5 Gardner, Governor of the State of Washington; the Honorable Joel Pritchard,
6 President of the Senate of the State of Washington; the Honorable Joseph E.
7 King, Speaker of the House of Representatives of the State of Washington;
8 and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S.
9 Senators, and the Honorable Don Young, U.S. Representative, members of the
10 Alaska delegation in Congress.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HJR 27
PUBLISH DATE: 2/17/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Compensation for lost revenue and
income caused by high seas interception
Sponsor: Zawacki and Hanley
Requestor: HSCFT&R

Agency Affected: Revenue
BRU: Income & Excise Audit
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: See attached page.

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: March 30, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: March 30, 1989

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

HJR 27
Prepared by:
Steven E. Kettel
Department of Revenue
March 30, 1989

SJR 27 estimates high seas interception of salmon at 2,000,000 fish. To determine the fish tax lost as a result of interception we have made the following assumptions:

- 1) 15% of the fish are Western Alaska Chinooks with an ex-vessel value of \$19.00 per fish.
- 2) 44% of the fish are Bristol Bay Sockeye with an ex-vessel value of \$4.60 per fish.
- 3) 3% of the fish are Western Alaska chums with an ex-vessel value of \$2.80 per fish.
- 4) 38% of the fish are Prince William Sound Coho with an ex-vessel value of \$8.50 per fish.
- 5) All fish are processed by floating processors which pay a 5% raw fish tax.
- 6) No estimate of salmon enhancement tax losses are considered for purposes of this analysis.

<u>Specie</u>	<u># of Fish</u>	<u>Value/Fish</u>	<u>Total Value</u>	<u>Tax(5%)</u>
Chinook	300,000	\$19.00	5,700,000	285,000
Sockeye	880,000	4.60	4,048,000	202,400
Chums	60,000	2.80	168,000	8,400
Coho	<u>760,000</u>	<u>8.50</u>	<u>6,460,000</u>	<u>323,000</u>
	2,000,000		16,376,000	818,800



700 Water Street—Upper
Ketchikan, Alaska 99901
Telephone (907) 225-8004
FAX: (907) 225-0169

Representative Jim Zawacki
Alaska State Legislature
PO Box Y, State Capitol
Juneau, AK 99811

March 29, 1989

ATTN: Dr. David Harrison

Dear Representative Zawacki:

On behalf of SEACOPS, I would like to express our strong support for House Joint Resolution No. 27 "Relating to Compensation for Lost Revenue and Income Caused by High Seas Interception of Alaska Salmon."

Our non-profit corporation is made up of over 1000 members representing not only commercial fishermen, but also the sports fishing and environmental communities. Public indignation over this high seas piracy is at a high level, but until the national government takes decisive action, our fishing community is going to continue to suffer serious economic loss. We are enclosing a partial copy of an economic report by the Economic Development Center of the University of Alaska-Southeast which estimates the 1988 loss in revenue to the pink salmon fishery of Southeast Alaska.

As an organization dedicated solely to eliminating high seas salmon/steelhead interception, we back this measure which is intended to alleviate any adverse economic impact.

We appreciate and support your efforts in dealing with this issue.

Sincerely,

Mark Tennant

Mark Tennant
Pres., SEACOPS

FILE COPY

**An Estimate of Lost Revenue to Fishermen,
Processor Employees and Processors
Due to the High Seas Interception
of Southeast Alaska's Pink Salmon**

Economic Development Center

UAS - Ketchikan

January 5, 1989

**S.E.A.C.O.P.S.
700 WATER STREET-UPPER
KETCHIKAN, ALASKA 99901
(907) 225-8004**

Summary

At the request of SEACOPS the following estimates of lost revenue due to high seas salmon interception were developed at the Economic Development Center, UAS-Ketchikan.

It is difficult to find a single measure of income from the Southeast Alaska salmon fishery (ex-vessel price for fish, wages to fishermen and processor employees, wholesale price for the processed fish, the processor's net income after production costs) with which to estimate the losses due to high seas salmon interception. Each one only tells part of the story and to add them together results in either mixing apples and oranges or counting the same dollar twice. For this report I have tried to estimate only two kinds of lost income: 1. The personal income to fishermen (crew shares) and to processor employees (wages) and 2. The net operating income (income after production costs have been subtracted) to boat owner/operators and processors.

To estimate the lost revenue, a hypothetical 1988 salmon season was constructed based on the salmon returns that had been predicted for Southeast Alaska by the Alaska Department of Fish & Game. This hypothetical season was then compared to the actual 1988 salmon season in Southeast Alaska. Estimates for the number and weight of salmon caught in Southeast Alaska in 1988 are from Alaska Department of Fish & Game (ADF&G) harvest estimates (as of 9/30/88). Ex-vessel

and wholesale prices for Southeast Alaska salmon are from the National Marine Fisheries Service's "Fishery Market News" with some adjustments based on interviews with Southeast Alaska fishermen and processors. Estimates of production and labor costs are from Southeast Alaska cannery and cold storage operators.

Apart from the difference between the number of salmon that actually returned and the number that were predicted there are three other variables that have been factored into the hypothetical season:

1. An increase in the amount of fishing time for seiners, drift gillnetters and trollers as a result of there being more pinks and cohos
2. An adjustment in the ex-vessel price (the price of the fish paid by the processor to the fisherman) of almost all salmon species due to the greater volume of fish harvested
3. An adjustment in the per unit wholesale value of the catch due to a greater volume of fish on the market.

With all of the above taken into account the revenue lost in the Southeast Alaska salmon fishery due to high seas salmon interception is estimated to be:

\$ 25.8 million to fishermen

\$ 7.7 million to processor employees

\$ 54.7 million to processors

In the process of preparing this report two significant future losses due to high seas interception surfaced: 1. Diminished future runs of chum and coho due to over fishing on the high seas and 2. Lost customers for canned and fresh salmon due to increases in price and a scarcity of product. Estimating these losses was beyond the scope of this report even though in time they will probably dwarf the losses that are estimated here.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Auke Bay Laboratory
P. O. Box 210155, Auke Bay, Alaska 99821
907 789 6000
Western Union Telex II (TWX) 5101000492

February 14, 1989

Dr. Dave Harrison
c/o Rep. Jim Zawacki
Pouch V
Juneau, Ak 99811

Dear Dr. Harrison:

I am including estimates of salmon interceptions by the high seas salmon fisheries of Japan per your telephone request of this date. I estimated interceptions by the Japanese mothership fishery as follows:

Table 1.--Estimates of interceptions of North American salmon by the Japanese mothership salmon fishery in thousands of fish, 1980-1987.¹

Year	Sockeye	Chum	Pink	Coho	Chinook	Total
1980	885	39	8	164	582	1,678
1981	668	28	2	154	69	921
1982	523	38	8	288	85	942
1983	513	44	2	74	68	701
1984	632	40	15	196	68	951
1985	417	15	<1	32	52	510
1986	142	29	<1	16	47	235
1987 ²	134	26	<1	9	32	211

¹Source: Michael Dahlberg, NMFS, Auke Bay. April 27, 1988, Fredin, R.A., et al. 1977. Pacific Salmon and the high seas salmon fisheries of Japan. Proc. Rept. U.S. Dept. Comm. NOAA. Northwest and Alaska Fisheries Center. 324 pp. INPFC Documents 2489, 2607, 2739, 2866, 2988, 3132 and 3269. C. Harris, 1987, FRI, pers. comm.

²Preliminary

Estimates of interceptions by the Japanese landbased driftnet fishery were published in a paper by C. Harris; I include a copy of pertinent tables.

Sincerely,

Michael L. Dahlberg
Michael L. Dahlberg, Ph.D.
Mathematical Statistician



Table 14. Total catch and estimated catch of Western Alaska (including Canadian Yukon) chinook salmon (in thousands of fish) in Japanese high seas salmon gillnet fisheries, 1964-1988a,b

Year	Mothership		Landbased		Combined	
	Total Catch	W.AK Catch	Total Catch	W.AK Catch	Total Catch	W.AK Catch
1964	410	179	208	40	618	219
1965	185	106	102	20	287	126
1966	208	108	118	22	326	130
1967	128	71	115	22	243	93
1968	362	244	97	18	459	262
1969	554	367	88	17	642	384
1970	437	312	148	28	585	340
1971	206	132	139	27	345	159
1972	261	189	107	20	368	209
1973	119	56	165	31	284	87
1974	361	208	188	36	549	244
1975	162	108	137	20	299	407
1976	285	117	201	42	486	159
1977	93	55	146	31	239	86
1978	105	36	210	63	315	99
1979	126	69	160	45	286	114
1980	704	416	160	22	864	438
1981	88	30	190	55	278	85
1982	107	45	165	41	272	86
1983	87	31	178	44	265	75
1984	82	36	92	21	174	57
1985	66	25	101	22	167	47
1986	60	24	77	20 ^c	137	44 ^c
1987 ^d	39	20	77	NA ^e	116	NA ^e
1988	NA ^e	NA ^e	NA ^e	NA ^e	NA ^e	NA ^e

^a Sources: 1964-83: Rogers, Donald et al., 1984. Origins of chinook salmon in the area of Japanese Mothership Fisheries. Fisheries Research Institute, University of Washington. 215 pgs. 1984-1987 WA catch estimate for mothership fishery: Mike Dahlburg, National Marine Fisheries Service, Juneau, AK.

^b Western Alaska catches represent fish from Bristol Bay, Kuskokwim, Yukon River and Norton Sound areas.

^c From Rogers, Donald. April 1987. Interceptions of Yukon Salmon by High Seas Fisheries. Fishery Research Institute, University of Washington, 34 pp. Dahlburg, Michael T. (NMFS) reported 9/27/86 an estimate of 24,000 west AK chinook salmon intercepted by mothership fleet. The difference between these two estimates results in the estimate of 20,000 western AK chinooks intercepted in the landbased fishery for 1986.

^d Preliminary information.

^e Data not available.

RECENT DEVELOPMENTS

IN

SQUID DRIFTNET ENTANGLEMENT AND ASSESSMENT STUDIES

September, 1988

ROK SQUID DRIFTNET TALKS

A Korean delegation led by Mr. Sung-Hwan Ha, Director-General of the Fisheries Promotion Division, National Fisheries Administrations, Republic of Korea (ROK), met with a U.S. delegation at the Department of State from July 25-26 to initiate negotiations regarding Korea's high seas driftnet fisheries. The U.S. was led by Mr. Larry Snead, Director of the DOS Office of Fisheries Affairs, and include representatives from NOAA Fisheries, Depts. of State and Interior and the U.S. Coast Guard.

Pursuant to the Driftnet Impact Monitoring, Assessment and Control Act of 1987, the U.S. delegation addressed three separate issue areas with Korean counterparts: (1) an observer agreement to provide statistically reliable information on the impact of the Korean driftnet fishery upon the marine resources of the United States; (2) an enforcement agreement with particular emphasis on the control of fishing in areas where significant number of U.S. marine resources (particularly salmonids) may be taken; and (3) information requested from the ROK regarding the nature, extent, and effects of Korean driftnet fishing in the North Pacific Ocean on U.S. marine resources.

The Korean delegation expressed an understanding of these concerns and a desire to work together and meet these concerns. However, they offered strong resistance to both the scientific observer and enforcement proposals submitted by the U.S., preferring a self-regulation program based on voluntary measures.

1988 ROK OBSERVER PROGRAM

In contrast to the Japanese/U.S. observer agreement, the ROK/U.S. observer agreement proceeded as planned with the placement of one U.S. observer aboard a ROK commercial squid driftnet vessel this summer. The observer was transported to the fishing grounds via a Korean cargo vessel and transferred aboard the Oyang 53 on July 9, 1988. The ROK squid gillnet vessel, Oyang 53, one of the larger vessels in the ROK squid fishery, is 49 m long and displaces 430 gross tons. The vessel fished in an array with ten other vessels. Each day, nets were set in an east-west

orientation with vessels spaced two minutes of latitude apart.

Twenty-two gillnet operations were observed before the observer disembarked aboard a cargo vessel for the return trip home. Most of the operations were conducted in the area of 41°N latitude and 168°W longitude, which is the eastern portion of the ROK fishing grounds. Sea surface temperatures varied from $13-17^{\circ}\text{C}$. No salmon were observed.

The cruise was successfully completed without incident. The Koreans proved to be gracious hosts and were always helpful on land and on sea. The data are presently undergoing analysis and a cruise report which summarizes the catch data and reports on Korean fishing methods will be available for distribution soon.

COOPERATIVE RESEARCH UPDATE

Five U.S. scientists participated aboard three foreign research vessels this year. Two of the cruises, the Canadian and ROK, are now completed and the second leg of the Taiwanese cruise will be finished in October.

To date, gillnet fishing has been conducted at 46 fishing stations configured into ten meridional transects, with each transect bisecting the northern boundary of the squid regulatory area (Figure 1). In all transects with available sea surface temperature (SST) data, surface temperatures at the northern boundary were less than 15°C . West of the dateline, SST's of $10-11^{\circ}\text{C}$ were observed at 1.5 degrees latitude south of the northern boundary. These observations are consistent with those of the past two years; since the beginning of U.S. cooperative research efforts in 1986, vessel operations along the northern boundary of the squid fishing area have usually encountered SST's less than 15°C .

Only transects west of the dateline, however, encountered salmon within the squid fishing area. East of the dateline no salmon were caught, even though SST's were often less than 15°C . These observations are also consistent with previous research vessel data which show that salmonid incidence and catch rates within a particular SST interval vary considerably across the North Pacific Ocean and are highest in the western portion of the fishery.

HONOLULU WORKSHOP

The high-seas squid task sponsored a workshop in 1988 on the Biology, Oceanography, and Fisheries of the North Pacific Transition Zone. The purpose of the workshop was to review biological and oceanographic information pertinent to squid driftnet issues, and to develop ideas for a strategic plan which would guide the advisory committee and NOAA Fisheries in developing program plans for squid driftnet entanglement

research.

As a result of this workshop, a strategic plan has been drafted and is now undergoing peer review by workshop participants. The plan is intended to develop the main features of a 5-yr research program which will guide short- and long-term programming, scheduling and budgeting decisions. The strategic plan is also designed to provide a basis for a more detailed and specific operations plan consistent with funding constraints. This plan is currently under development and is scheduled for completion in late fall.

DRIFTNET LEGISLATION--IMPACT REPORT

The recently signed "Driftnet Impact Monitoring, Assessment and Control Act of 1987" (Title IV of Public law 100-220) has established a legal mandate for U.S. governmental actions regarding high seas squid driftnet fisheries which impact the "marine resources of the United States". This legislation requires, inter alia, the U.S. government to:

- (1) negotiate with the driftnet nations for the purpose of entering into agreements for the statistically reliable cooperative monitoring and assessment of the number of marine resources killed by driftnet fisheries;
- (2) conduct an assessment of the "nature, extent, and effects" of the driftnet fishery on the marine resources;
- (3) request foreign governments engaged in driftnet fishing to provide various information essential to the assessment; and
- (4) report to Congress on the outcome of the negotiations, the results of the driftnet fishery assessment, and the adequacy and reliability of the information provided by the foreign governments.

The squid advisory committee is currently analyzing catch data from the squid driftnet area and will begin drafting this report soon. Since little direct observations on incidental catches are available, the impact analyses will heavily rely upon 1982-88 research vessel data.

CALENDAR

- OCT 25-NOV 4: INPFC annual meeting in Tokyo.
- NOV 5-8: U.S./Taiwan bilateral meeting on the Assessment of North Pacific Resources (Taipei).
- NOV 9-12: U.S./ROK bilateral meeting on the Assessment of North Pacific Resources (Pusan).
- DEC 1: Due date of impact report

PUBLICATIONS

Ignell, S.E. 1988. Zonal Variability in salmonid catch rates from research vessels operations within the North Pacific squid driftnet fishery area. (Document submitted to the annual meeting of the Int. N. Pac. Fish. Comm., Tokyo, Japan, November 1988.) 16 pp. Northwest and Alaska Fisheries Center, Nat. Mar. Fish. Serv., Nat. Oceanic Atmos. Admin., Auke Bay Laboratory, P.O. Box 210155, Auke Bay, AK 99821.

The Squid driftnet Entanglement and Assessment Studies is a national program formed to address scientific issues pertaining to impacts of high-seas squid driftnet fisheries in the North Pacific Ocean. Oversight of the program is provided by an advisory committee comprised of scientists from the Northwest and Alaska Fisheries Center (NWAFC) and the Southwest Fisheries Center (SWFC).

Advisory Committee

Jim Coe (NWAFC)
Michael Dahlberg (NWAFC)
Linda Jones (NWAFC)

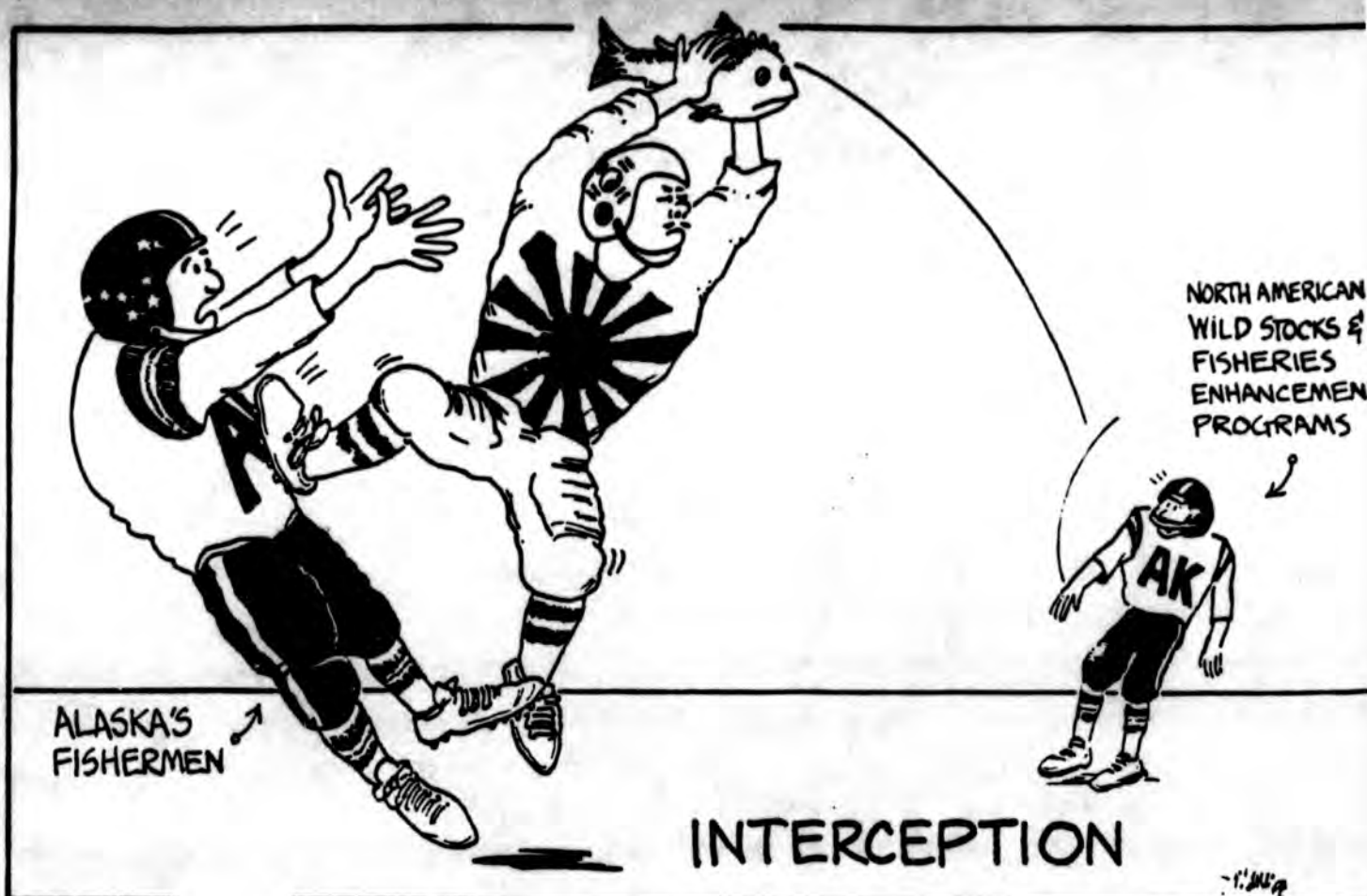
Steve Ignell (NWAFC)
Low L. Low (NWAFC)
Jerry Wetherall (SWFC)

For further information contact one of the following:

Dr. Richard Berry
Sci. and Res. Dir.
Northwest Region
7600 Sand Pt. Way NE
Seattle, WA 98115

Dr. William Aron
Sci. and Res. Dir.
Alaska Region
7600 Sand Pt. Way NE
Seattle, WA 98115

Dr. Isadore Barrett
Sci. and Res. Dir.
Southwest Region
P.O. Box 271
La Jolla, CA 92038



RECAP

Salmon Sleuths Uncover Massive High-Seas Harvest

by John van Amerongen

Japanese groundfish pirates weren't the only ones accused of high-seas pilfering in 1988. Foreign "squid" driftnetters were copping a hefty free lunch of U.S. origin salmon in international waters of the North Pacific, too.

Whether the illegal salmon harvest occurred beyond the scope of U.S. jurisdiction remains to be tested, but adequate enforcement of fisheries agreements on the high-seas was clearly beyond the range of this year's Coast Guard budget. Once again, it was largely up to the industry itself to dig up the evidence and convince the federal government that American resources and markets were in jeopardy.

Just about the time Ted Evans and Sam Hiele were taking home movies of Japanese trawlers fishing illegally in the Bering Sea, Barry Lester of Seafood Producers Cooperative in Bellingham, Wash., was writing letters to industry repre-

sentatives, detailing information he had uncovered at a seafood trade show in France during the summer of '87.

Someone at the show had provided him with a French Customs document, summarizing frozen salmon imports for the first six months of 1987. One particular item, 886.6 metric tons of salmon imports from Singapore, caught his eye, especially since Singapore has no salmon resource or fishery of its own.

"This is 1.95 million pounds of salmon, and at a three-pound average represents 651,000 fish," Lester wrote, noting the fish were mainly immature coho. "These fish are being taken on the high seas by Taiwanese squid fishermen, frozen round at sea, reprocessed in Taiwan and shipped to various markets through Singapore."

Wayne Lewis, agent for the National Marine Fisheries Service Enforcement Division in Seattle, said the information uncovered by Lester was "the first time we've thought that coho might be in-

volved."

Lewis said at the time that NMFS had four other investigations at different stages, and had seized 1.3 million pounds of chum and sockeye salmon brought into the U.S. in attempts to launder its origin. Said Lewis, "NMFS is very concerned about the quantity of salmon that's coming into the U.S., and the complicated schemes, and the number of companies involved."

Lester suggested the U.S. get tough. "The U.S. keeps Taiwan alive," he told the JOURNAL in January. "If we can't bring political pressure on them, then our political clout is pretty dismal."

In January the House of Representatives passed H.R. 3584, the Driftnet Impact Monitoring, Assessment and Control Act — a bill requiring the Secretary of Commerce to negotiate a monitoring and enforcement system with all nations that allow high-seas driftnet fishing. If the agreements are not negotiated and implemented by the end of June, the U.S. can embargo fish-

(NEED TO
BEEF UP
COAST
GUARD
BUDGET)

$1,950,000 / 165 = \$11,952$
 $\$300 \times 651,000 = \$195,300,000$

imports from these nations under provisions known as the Pelly Amendment.

Meanwhile, back in the legitimate high-seas salmon fishery, the Japanese requested that the International North Pacific Fisheries Commission allow them to expand the area of operation of their mothership fleet. Under the proposal, instead of operating in the western Aleutian "slot," the two motherships and 129 catcher-boats would fish for a longer time in the Donut area and in waters south of the Aleutians. The U.S. balked at the proposal, estimating that it would double the interception of North American salmon to 1.65 million fish, three-quarters of them sockeye.

While frustration continued to fester within the domestic salmon industry, the environmental community was attacking the driftnet fleets successfully from the marine mammal front. On June 9, the U.S. Supreme Court rejected a bid by the Japanese Salmon Federation (and the U.S. Justice Department) to reopen U.S. waters to driftnet salmon fishing by the Japanese mothership fleet.

The ruling upheld a June 1987 injunction against the fishery, issued by Federal District Court Judge Norma Johnson. She agreed with conservationists that NMFS could not issue the Japanese a permit to take Dall's porpoise if the gillnetters would also be taking fur seals incidentally. Northern fur seals were officially declared "depleted" on May 18, 1988. The Japanese argued that to deny the permit would cause their salmon fishermen irreparable harm and negate the INPFC treaty allowing a fishery within the U.S. zone.

With the Japanese nets out of the U.S. EEZ, the focus shifted once again to international waters and the activities of foreign squid vessels. On July 25—just about the time Southeast Alaska salmon fishermen were noticing a peculiar absence of predicted pink and coho returns—the Coast Guard cutter *Active* was sounding a danger signal and taking evasive action to avoid being rammed by the *Hoskin Maru* 28, a Japanese squid vessel. After some further delay on the part of the Japanese, a boarding party was finally accepted. They found not only partially frozen salmon and steelhead aboard, but also a live fur seal.

Commenting on the incident, Senator Frank Murkowski (R-AK) said

at the time, "From the evidence found by the boarding party, it appears the delaying tactics may have been designed to allow the crew to dump an unknown quantity of illegally harvested salmon..."

"These recent events," he said, "certainly do not encourage me to believe in a common effort to bring illegal fishing under adequate controls."

Less encouraging, still, were the summer overflights conducted by NMFS enforcement personnel in conjunction with the U.S. Coast Guard. During 11 flights between June 28 and September 3, the Coast Guard logged 93 foreign squid vessels fishing in areas north and east of agreed-upon boundaries, where the interception of salmon would be more likely to occur. Unfortunately, identification of the violators was difficult; shortly after the first air patrol, most vessels sighted had obscured their markings.

But there was nothing obscure about the net marks turning up on troll-caught salmon in Southeast Alaska. Buyers and fishermen alike were reporting an increased incidence of net-marked fish from Southeast to Bristol Bay. While some biologists were unwilling to

call it more than coincidence, there was something very wrong with the salmon fishery in Southeast. By August 24 fishermen had harvested only 5 million pinks from a forecast of 42 million. Escapement for the parent class had been exceptional and the outmigrating fry count had been good. Whatever happened to them happened at sea.

But it wasn't just pinks that pulled a no-show in Southeast. Coho returns came in at historic lows, as well. Trollers suffered through two 10-day closures this year due to the lack of fish. Had poor weather conditions killed the coho in the creeks? Some thought so, until hatchery returns indicated otherwise. Said Southern Southeast Regional Aquaculture Association manager Don Amend, "It's downright pathetic. We don't know the final number yet, but whatever it is, it's going to be a disaster."

Coho returns to Neets Bay Hatchery normally range between 7 and 13 percent. This year, by September 29, returns were only one half of one percent. Whatever happened to the SSRAA coho happened at sea, too.

While government officials admitted it didn't add up, they were
see SEACOPS page 84

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SEACOPS

continued from page 79

reluctant to put two and two together and blame the foreign fleets for such a shortfall. Southeast fishermen and processors figured it differently. Ketchikan processor Cliff Phillips began an investigation of his own through his marketing contacts abroad. On September 28 he received a telex from Hong Kong indicating that Taiwanese principals had shipped 7,500 metric tons of chum, sockeye, coho and pink salmon through Singapore this year, "all from North Pacific waters."

Subsequent telexes from a variety of sources abroad were made public in September by the Pacific Seafood Processors Association (PSPA). In a letter to Clem Tillion, chairman of the U.S. Section of the INPFC, PSPA director Barry Collier noted, "All of the specific offerings and information we have received on this matter has been provided to the Department of State and NMFS. The general consensus is that some 10,000 metric tons of salmon was caught primarily by the Taiwanese and is being laundered through Singapore and Thailand into the world markets."

Collier noted that "no less than 4,000 mt and more likely over 8,000 mt of pink salmon are in Thailand for canning. This equates to between 3 million and over 6 million pinks. We know that some 400,000 cases of pinks will be canned in Thailand and we are certain the total pack will be much larger," Collier wrote.

As for coho, Collier wrote, "It is common knowledge in Japan that the frozen coho market was glutted in early September of this year by the arrival of 1,500 mt (some 720,000 fish) of coho from the Japanese squid fleet."

About the time Barry Collier was penning his letter of concern, a group of fishermen, processors, businessmen and community leaders was gathering in Ketchikan to coordinate the Southeast effort against high-seas interception. Known as SEACOPS—Southeast Alaska Coalition Opposing the Pirating of Salmon—the non-profit group had enlisted a membership of roughly 300, including Alaska Governor Steve Cowper, by year's end. Spearheaded by Ketchikan attorney/gillnetter Mike Holman and

troller Lonnie Haughton, the group's goal was to gather and disseminate information and evidence necessary "to force immediate political action to save U.S. and Canadian salmon and steelhead." Since its initial meeting in Ketchikan in September, SEACOPS has sponsored meetings in Seattle, Sitka, Juneau, Petersburg and Prince Rupert, B.C.

By year's end there were no concrete indications that the interception problem had lessened. Nevertheless, there was every indication that the fires would remain hot throughout the winter, thanks to the efforts of individual fishermen, NMFS enforcement officials, and organizations like SEACOPS, PSPA, United Fishermen of Alaska, the Alaska Trollers Association, Alaska Independent Fishermen's Marketing Association, ADF&G biologist Chuck Meacham, and the conservation community.

'Cutting off trade in manufactured goods may not be the only step the U.S. undertakes.'

—Sen. Murkowski

Perhaps the strongest official stand against the salmon pirates was taken by Senator Frank Murkowski who conducted a personal investigation of the Taiwan-Singapore-Thailand salmon laundering business in November. Murkowski visited a cannery near Bangkok where large quantities of Pacific Salmon obtained in Singapore had been canned this year.

At Murkowski's request and with assistance from local citizens in Singapore, U.S. embassy staff obtained a sample of salmon which was forwarded to a NMFS lab in the U.S. for analysis of origin. Said Murkowski, "Even if the fish cannot be proved to be North American origin, it still constitutes valuable physical evidence... it is an immature fish... clearly a product of high-seas fishery."

Following his investigation, Murkowski hand delivered a letter to government officials in Taiwan that reflected the depth of U.S. concern:

"The customary principles of in-

ternational law, as well as past agreements between the U.S. and Taiwan, recognize specifically the fact that the United States has jurisdiction over all salmon of U.S. origin, no matter where they might be found," Murkowski wrote. "No fishery may occur on these fish unless by agreement with the United States."

Referring to the failure of pink and coho returns to Southeast and the offerings of laundered fish on the world market, Murkowski noted the evidence of Taiwanese involvement and called it "a completely unacceptable situation."

Noting the provisions of the Driftnet Act passed this year, Murkowski noted, "The U.S. has called upon all the nations with high-seas squid fisheries to join with us in agreements to bring these fisheries under better control."

Noting that no such agreements had yet been concluded, Murkowski explained the incentive—or delivered the threat, if you will.

"Congress, knowing that such agreements might be difficult to reach, prepared for just such an eventuality. Unless these agreements are reached by the end of June of 1989—just seven months away—any country that has not agreed will be open to severe trade sanctions, including an embargo on all fishery products."

"Moreover," the senator continued, "during the past year, an effort to further strengthen such an embargo was only narrowly defeated. I can guarantee," Murkowski told the Taiwanese, "there will be another such attempt this coming year, and I believe it will be successful. In that event, the failure to agree on driftnet fishery controls may lead not only to an embargo on fish products, but also of any other goods that a country exports to the U.S."

With those words the Senator took the interception issue well up the priority ladder. Still, he went farther.

"I urge that this issue be taken seriously," he wrote. "Many of us in Congress feel very strongly about this—so strongly that cutting off trade in manufactured goods may not be the only step the United States undertakes."

What he meant by that was a subject for speculation, perhaps nervous speculation. It was tough language, the kind Alaska salmon fishermen had been anxious to hear and ready to applaud. □

10,000 metric tons x 2000 lbs = 20,000,000 lbs x 3¢ per lb = 600,000.00

6165 x 120,000 = 739,800,000
4,320,000 x 3.00 = 12,960,000
This would be high seas piracy has been going on since 1937. Ah,
Just think what 50,000
Alaskan families lose each year!



MAR 20 1989

JIM D. CLARK
BOROUGH MANAGER

TELEPHONE
(907) 246-4224

Bristol Bay Borough

Box 189 • NAKNEK, ALASKA 99633

March 17, 1989

Representative George Jacko
House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Jacko:

I am writing in regards to HJR 27 introduced by Representative Jim Zawacki. The Bristol Bay Borough is recommending action on HJR 27, and your position as Chairman of Special Committee on International Trade affords you the opportunity to get this bill moving. We need to wake up Washington as to what is happening and how much this situation is costing Alaskans and the State of Alaska in lost income.

Sincerely,

Fred W. Pike
Mayor

cc: Rep. Jim Zawacki

Kotzebue Fisherman's Association
Kotzebue, Alaska 99752
March 15, 1989



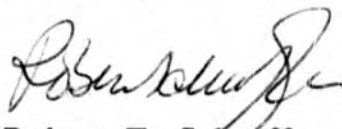
Rep. George Jacko, Chair
Special Committee on International Trade
Pouch V
Juneau, Alaska 99811

Dear Rep. Jacko:

The Kotzebue Fisherman's Association supports HJR 27 and recommends its passage ASAP. It would seem only logical to have Sea Pirates pay compensation to Alaska's fishing industry for robbing fish bound for Alaska's streams. What is allowed to happen to Alaska's fish on the high seas, even within America's 200 mile boundary, is criminal. Alaska's fisherman suffer economic hardship because of this and will continue to do so until drastic measures are taken by congress to insure protection of our fish resources.

Our Association commends you and your colleagues for your efforts to protect Alaska's fisheries interests. Thanks.

Sincerely,



Robert T. Schaeffer
Pres.. Kotzebue Fisherman's Association

cc: Senator Al Adams
Rep. E. MacLean
Senate Pres. Tim Kelly
Speaker of House Sam Cotton



MAR 22 1989

City and Borough of Sitka

304 LAKE STREET . SITKA, ALASKA . 99835

Gj

March 20, 1989

Representative George Jacko
Special Committee on International Trade
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

The Assembly of the City and Borough of Sitka has gone on record in support for HJR 27, requesting compensation to commercial fishermen and the State of Alaska for high seas interception of salmon by foreign nations.

We understand this resolution has not yet been considered by the Special Committee on International Trade. The Committee's prompt consideration of this resolution is encouraged. Please move on HJR 27 soon.

Thank you for your consideration of this request.

Sincerely,

Stuart Denslow
Administrator

cc: Rep. Jim Zawacki



City and Borough of Sitka

304 LAKE STREET . SITKA, ALASKA . 99835

March 20, 1989

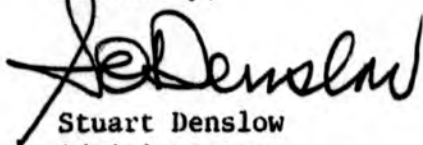
Hon. Jim Zawacki
Representative, District 7
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Zawacki:

Thank you for your letter of March 4, 1989 to Mayor Dapcevich, providing information about your HJR 27. The Assembly of the City and Borough of Sitka has gone on record in support of HJR 27, which requests compensation to commercial fishermen and the State of Alaska for high seas interception of salmon by foreign nations, specifically, Japan, South Korea, and Taiwan.

By separate letter, a copy of which is enclosed, I have expressed the Assembly's position to Rep. Jacko and encouraged expeditious consideration of this resolution. Thank you again for contacting the City and Borough of Sitka.

Sincerely,



Stuart Denslow
Administrator

Enclosure

WESTERN ALASKA COOPERATIVE MARKETING ASSOCIATION

(907) 842-5592 • BOX 213 • DILLINGHAM, ALASKA 99516

March 15, 1989

Representative Jim Zawacki
State of Alaska
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Jim:

On behalf of WACMA's Board of Directors, I would like to take this opportunity to state that our organization does appreciate your work on House Joint Resolution Number 27 and do support all of your efforts concerning the high seas interception issue.

I did receive your March 3rd letter and have followed up on your concerns, plus passed on that letter to a few of the other commercial fishing organizations within Bristol Bay Region.

Therefore, our letters are now in the mail to George Jacko's office.

Sorry I did not get a chance to visit you while I was down for the UFA meeting, but, unfortunately I broke my leg and spent that time in Bartlett Memorial Hospital. Not much fun.

Hopefully, I will be able to visit with you in a month or so. I still have to go down and do some work at UFA's office.

Once again, thank you for the information.

Sincerely,



David M Jackson

Soviets, U.S. sign fish pact

'Doughnut hole' protection sought

JUNEAU (AP) — United States and Soviet fisheries negotiators have signed an agreement calling for protection of North Pacific salmon and pollock stocks.

The agreement supports efforts to halt the "unauthorized possession, harvest, transport and sale of salmon in the North Pacific," according to a joint statement from U.S. and Soviet negotiators.

Alaska fishermen allege that Japanese, Polish and Korean fishing vessels are overharvesting the area between U.S. and Soviet waters in the Bering Sea. They charge that foreign fleets have reduced salmon and pollock stocks in the area.

They also allege that foreign trawlers scoop up U.S. and Soviet salmon while fishing for other species and, in some cases, cross into territorial waters for the unauthorized taking of fish.

U.S. and Soviet negotiators agreed measures should be taken to reduce the unregulated fishery in the "doughnut hole," and to make recommendations for international action "at an early date," the joint statement said.

The area is known as the doughnut hole because it is surrounded by territorial waters of the two countries.

"We're very concerned that the current level of fishing in the doughnut could wipe out the stocks

See the North Pacific and to increase bilateral cooperation toward enforcing salmon conservation measures in the area.

Bering Sea salmon, pollock and other groundfish stocks are primarily U.S. and Soviet fish, Cotten said. "The U.S. and U.S.S.R. have similar motivations for shutting down all high-seas salmon fishing," he said.

"The ultimate goal is to stop all high-seas salmon fishing," Cotten said.

"Both countries have reached the conclusion that fishing for salmon outside of our 200-mile zones is wasteful," Cotten said.

The next negotiating session will be held in the Soviet Union within the next few months, Binkley said.

Articles are from recent Alaskan Newspapers.

High seas intercept confirmed

Analysis of scales taken from an immature chum salmon obtained in Singapore confirms the fish was taken on the high seas in violation of current international agreements and principles set out by the Law of the Sea Convention.

According to a report provided to Sen. Frank Murkowski by the National Marine Fisheries Service, the fish is most likely to be from either the Puget Sound area or the Soviet Union. The salmon was obtained on Murkowski's behalf from a Singapore wholesaler, as a sample of the salmon available for sale in Singapore.

The fish's age, size and other characteristics make it clear that it was caught on the high seas, Murkowski said. Neither the U.S. nor the Soviet Union have authorized high seas fishing for salmon originating from their streams.

The finding is significant, according to the senator, because it lends credence to the suspicion that the decline in U.S. salmon runs including Alaska salmon, is the result of illegal catches of immature salmon on the high seas by foreign vessels.

According to the senator, a sophisticated network is in place under which salmon taken illegally on the high seas is transferred at sea to boats that off-load the fish at a safe port, such as Singapore or Hong Kong. From there, they either move directly to market as frozen fish, or to another port such as Bangkok for canning.

"In both cases, their eventual goal is markets in Europe and Australia where they compete with legal salmon caught in compliance with international agreements, leading to a substantial loss of revenue for fishermen and processors who follow the rules."

Continued from page A-1

Americans are fishing," said Sen. John Binkley, R-Bethel. Binkley, along with Rep. Sam Cotten, R-Eagle River, represented the Alaska legislature at the meetings in Washington, D.C., where the agreement was signed Thursday.

"The two countries plan to come up with a set of regulatory measures for the doughnut hole as soon as possible," Binkley said.

Scientists from both countries agreed to joint research on salmon and groundfish stocks in

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(907) 591-2929 or (907) 591-2232

March 14, 1989

The Honorable Jim Zawacki
3111 C Street, Suite 415
Anchorage, AK 99503

Dear Representative Zawacki:

The City Council of Mt. Village, Alaska heartily endorses your HJR # 27 relating to compensation for lost revenue and income caused by high seas interception of Alaskan Salmon.

With recent declines in oil revenues, residents of the Yukon Delta are even more dependant upon the revenues and local income generated by commercial Salmon fishing. The further reduction of Salmon catches created by high seas interception would be an additional, and devastating blow to local village economies in this area.

We urge our legislators to endorse and support your resolution. Passage will hopefully have a positive impact on the economies of Yukon Villages.

Thank you for your efforts.

Esther A. Brown
Esther Brown, Mayor

Carol Myre
Carol Myre, Secretary

Harry Wilde, Sr.
Harry Wilde, Sr., Member

Laura Peterson
Laura Peterson, Vice Mayor
Waskay Walters
Waskay Walters, Member

Elmer Beane
Elmer Beane, Member

cc.

Rep. Kay Wallis
Sen. John Binkley
Alaska Delegation to Congress

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor



NORTH SLOPE BOROUGH ON HOUSE JOINT RESOLUTION # 27

The North Slope Borough supports House Joint Resolution # 27, relating to compensation for lost revenue and income caused by the high seas interception of Alaskan salmon. It is clear that such interceptions, primarily by Japan, South Korea, and Taiwan, represent a great threat to both the economic well-being of Alaskan residents, and the continued viability of the Alaskan salmon stock. The resolution could perhaps be strengthened by placing further emphasis on the need to protect the fish stocks, and the proper allocation of the burden in this regard. Suggested additional clauses are as follows:

WHEREAS, the State of Alaska and Alaskan fisherman carefully and intensively manage the Alaskan harvest of salmon to insure the continued viability of the salmon stock; and

WHEREAS, the high seas interception of Alaskan salmon by foreign fleets is undertaken without regard for the continued well-being of the salmon stock; and . . .

These points are somewhat distinct from those already contained in the bill, and should not unduly lengthen the document.

govaff/resol.27/k

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor



March 16, 1989

Representative George Jacko,
Chairman of Special Committee
on International Trade
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Jacko:

Enclosed for your information is the North Slope Borough position on House Joint Resolution #27. Any assistance that you may be able to give in moving this legislation quickly would be appreciated.

I appreciate the opportunity to communicate the concerns of the North Slope Borough and support those communities that this legislation will impact directly.

Sincerely,

GEORGE N. AHMAOGAK, SR.
Mayor

Enclosure

cc: Representative Eileen MacLean
Representative Jim Zawacki
SLI/HJR#27
Ann Stokes, NSB Attorney

\wp\betsy\Mhjr27

BRISTOL BAY DRIFTNETTERS' ASSOCIATION

3605 Arctic Blvd., Suite 742 Anchorage, Alaska 99503

(907)562-2161, Ext. 742

March 14, 1989

Rep. George Jacko, Chairman House
Special Foreign Trade Committee
Pouch V
Juneau, AK 99811

Dear Representative Jacko:

In behalf of the membership of Bristol Bay Driftnetter's Association, I am writing to urge your support for HJR 27, now in your committee. We believe passage of this measure would be of immense benefit to people of your district, as well as to the entire state and nation.

We realize of course, that the chances of either the fishermen or the State of Alaska receiving an award as compensation for lost income and revenue are remote. We should not, however, allow this to prevent us from using this issue as a means to call attention of Americans nationwide to the unfair situation which has existed for years relative to high seas interceptions of our salmon.

The interception has been increasing and will inevitably worsen before we can expect a reversal of the situation, makes attention-getting measures like HJR 27 far more important now than ever before.

Tho we may not expect instant realization of the stated goals of the resolution, one cannot consider the measure to be frivolous in any way. The precedent for claims of this nature have been set at the very highest level of our government because such claims appeal to the basic American sense of fair play.

If the salmon fishermen of Alaska ever see a resolution of the high-seas interception problem, it will be due to a nationwide recognition that a cessation of such high-seas interceptions is demanded in the spirit of fair play.

We believe further, that this proposal strikes at the heart of the present problem because it calls national attention to the far-reaching economic impacts of the high-seas fisheries. Americans understand and want fair play; they also understand things which hit them in the pocketbook- individually and nationwide.

Again, we urge you to seek timely and favorable treatment for HJR 27. Thank you for your consideration.

Sincerely yours,



Dean Paddock, Executive Director
Bristol Bay Driftnetters Association

MAR 20 1989



BRISTOL BAY HERRING MARKETING CO-OP

March 15, 1989

Representative George Jacko
State of Alaska
House of Representatives
Pouch V
Juneau, Alaska 99811

A handwritten signature in dark ink, appearing to be 'W. Nicholson', written in a cursive style.

Dear Representative Jacko:
On behalf of BBHMC and the Board of Directors, I would like to extend our support for House Resolution Number 27 Relating to compensation for lost revenue and income caused by high seas interception of Alaskan salmon and urge your committee to pass on HJR 27 as soon as possible.

Our cooperative is comprised of over 200 Bristol Bay resident herring fishermen who also fish salmon within the Bristol Bay Fisheries.

We strongly support all efforts to cease the interception of salmon on the high seas. We appreciate your efforts in this matter.

Sincerely,
William H. Nicholson, President

A handwritten signature in dark ink, appearing to be 'Joe McGill', written in a cursive style.
For - Joe McGill, Vice-President

MAR 20 1989

WESTERN ALASKA
COOPERATIVE MARKETING ASSOCIATION

1

(907) 842-5592 • BOX 213 • DILLINGHAM, ALASKA 99576

March 15, 1989



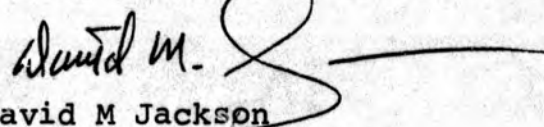
Representative George Jacko
Alaska State Legislature
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Jacko:
On behalf of WACMA, I would like to extend our support for House Joint Resolution Number 27 Relating to compensation for lost revenue and income caused by high seas interceptions of Alaskan salmon and urge your committee to pass on HJR 27 as soon as possible.

Our cooperative is comprised of almost 200 Bristol Bay resident commercial fishermen. We all recognize the harm not only to the resource, but the economic loss due to the illegal high seas interception of Bristol Bay origin salmon.

We will continue to support any of your efforts concerning the high seas interception issue.

Sincerely,
Harvey Samuelsen, President



David M Jackson

MAR-17-89 FRI 9:24 P. 02/04

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor



March 16, 1989

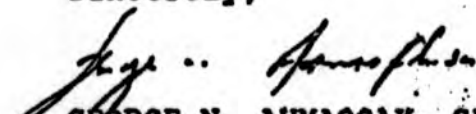
Representative George Jacko,
Chairman of Special Committee
on International Trade
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Jacko:

Enclosed for your information is the North Slope Borough position on House Joint Resolution #27. Any assistance that you may be able to give in moving this legislation quickly would be appreciated.

I appreciate the opportunity to communicate the concerns of the North Slope Borough and support those communities that this legislation will impact directly.

Sincerely,


GEORGE N. AHMAOGAK, SR.
Mayor

Enclosure

cc: Representative Eileen MacLean
Representative Jim Zawacki
SLI/HJR#27
Ann Stokes, NSB Attorney

\wp\betsy\Mhjr27

100-17-59 FRI 8:35 P. 03/84

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 89
Barrow, Alaska 99723

Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor



NORTH SLOPE BOROUGH ON HOUSE JOINT RESOLUTION # 27

The North Slope Borough supports House Joint Resolution # 27, relating to compensation for lost revenue and income caused by the high seas interception of Alaskan salmon. It is clear that such interceptions, primarily by Japan, South Korea, and Taiwan, represent a great threat to both the economic well-being of Alaskan residents, and the continued viability of the Alaskan salmon stock. The resolution could perhaps be strengthened by placing further emphasis on the need to protect the fish stocks, and the proper allocation of the burden in this regard. Suggested additional clauses are as follows:

WHEREAS, the State of Alaska and Alaskan fisherman carefully and intensively manage the Alaskan harvest of salmon to insure the continued viability of the salmon stock; and

WHEREAS, the high seas interception of Alaskan salmon by foreign fleets is undertaken without regard for the continued well-being of the salmon stock; and . . .

These points are somewhat distinct from those already contained in the bill, and should not unduly lengthen the document.

govaff/resol.27/k

APR 03 1989



KETCHIKAN GATEWAY BOROUGH

344 Front Street
Ketchikan, Alaska 99901
(907) 225-6151

March 30, 1989

The Honorable George Jacko
Chair, Special Committee on
International Trade
House of Representatives
P.O. Box V
Juneau, Alaska 99811

HJR 27 RELATING TO COMPENSATION FOR LOST REVENUE AND INCOME CAUSED
BY HIGH SEAS INTERCEPTIONS OF ALASKAN SALMON

The Ketchikan Gateway Borough Assembly is vitally concerned about the severe adverse economic effects on our commercial fishing industry caused by illegal foreign harvest of immature Alaskan salmon on the high seas. HJR 27 is one of many solutions which must be pursued to protect Alaska's fishing industry. Your immediate positive efforts to move this resolution are encouraged and would be appreciated.

Georgianna Booth

Georgianna Booth
Borough Clerk for

Ralph G. Gregory
Borough Mayor

c The Honorable Jim Zawacki

MAR 28 1989

NORTHWEST ARCTIC BOROUGH

P.O. BOX 1110
KOTZEBUE, AK 99752
(907) 442-2500 / FAX 442-2930

March 24, 1989



The Honorable George Jacko
House of Representatives
Pouch V
Juneau, Alaska 99811

RE: HJR 27

Dear Representative Jacko:

In response to Representative Jim Zawacki's letter requesting support for House Joint Resolution 27 which is currently before the Special Committee on International Trade of which you are chair, please consider this a letter of support for the resolution and ask that you expedite this resolution through your committee as time is of the essence.

The resolution which requests compensation to Alaskan commercial fishermen for the high seas interception of our salmon by foreign nations would most certainly enhance the State of Alaska and more specifically the Northwest Arctic Borough both economically and socially.

Thank you for your positive action.

Sincerely,

Chuck Greene
Mayor



APR 03 1989

Representative Jim Zawacki

Alaska State Legislature

3111 "C" STREET, SUITE 415
ANCHORAGE, ALASKA 99503
(907) 561-2037

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-2719/2693

Handwritten initials, possibly "GJ", in a stylized, cursive script.

March 30, 1989

MEMBER

STATE AFFAIRS COMMITTEE
LEGISLATIVE COUNCIL
FINANCE SUBCOMMITTEE
PUBLIC SAFETY
ANCHORAGE CAUCUS
CO-CHAIRMAN

Rep. George Jacko, Chairman
House Special Foreign Trade Committee
Pouch V
Juneau, Ak 99811

Dear George:

Let me express my appreciation and thanks for considering and moving HJR27. I know the resolution will help bring attention for the need to find a solution in reducing high seas interceptions by foreign fishing fleets.

Sincerely,

A handwritten signature in cursive script that reads "Jim".

Jim Zawacki
Representative

SCOMM

65:16

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*****
*
* DELIVER TO: LIOCLON
*
*
* ORIGINAL
* SENT:          04/24/89  TIME: 10:08
* FROM:          LIOCINE
* SUBJECT:       (H) SCFT;HB281;4-24;BRIDGE
* PRINT DATE:    04/24/89  TIME: 10:08
*
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**** BRIDGE LIST ****

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DATE:  _____APRIL 24, 1989_____
TC #:  _____89-04-088_____
SPONSOR:  _____HOUSE SPECIAL COMMITTEE ON FOREIGN TRADE_____
SUBJECT:  _____HB 281 - CORPORATE INCOME TAX REPORTING METHODS_____
MODERATOR:  _____INEZ IN ANCHORAGE_____

```

SITES ON LINE:

1. ~~ANCHORAGE~~
2. JUNEAU----- CHAIRING SITE
3. SEWARD----- BILL NOLL, SUNEEL AK CORP AND AK-KOREA BUS COUN.
4. CONNECTICUT- MR. CHRIS WADA, SENIOR VICE PRES. OF SONY CORP.



FLUOR DANIEL ALASKA, INC.

FACSIMILE LEAD SHEET



URGENT



CONFIDENTIAL



PLEASE CALL FOR PICKUP

ORIGINATOR:

FLUOR DANIEL ALASKA
900 W. 5th Ave., Suite 300
Anchorage, Alaska 99501

EQUIPMENT:

NEFAX BIT-V
tele: (907) 279-6844
confirmation
tele: (907) 276-2636

SEND TO: REPRESENTATIVE GEORGE JACO, CHAIRMANLOCATION: TUNEAU TELE: 465-4942SUBJECT: PROPOSED HOUSE BILL 281

REMARKS:

FROM: GEORGE P. WIERCH

CHARGE TO: Contract # _____ Area / Unit _____

Org # _____ Account _____

Number Called 465-2718OPERATOR: JOHNNA REBERDATE SENT: 4-25-89 TIME: 3:06NUMBER OF PAGES INCLUDING LEADSHEET 2

**FLUOR DANIEL**

Fluor Daniel Alaska, Inc.
900 West 5th Avenue, Suite 300, P.O. Box 196680
Anchorage, Alaska 99519-6680
(907) 276-2636

April 24, 1989

House International Trade Committee
Pouch V
Juneau, Ak 99811

Attention: Representative George Jacko, Chairman

Gentlemen:

PROPOSED HOUSE BILL 281
An Act Relating to Corporate Income Taxes

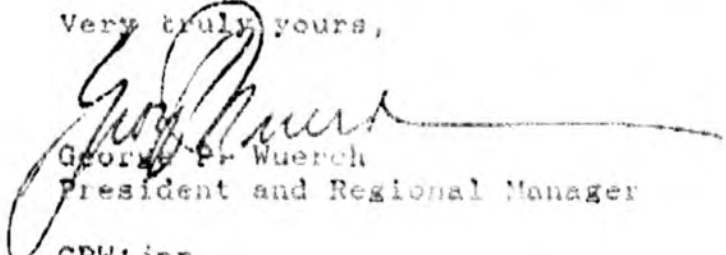
Fluor Daniel Alaska, Inc. is Alaska's largest engineering and construction company. It is a wholly owned subsidiary of the world wide Fluor Corporation which has a long history of work in Alaska.

House bill 281 proposes to change the basis of income taxes for foreign companies from worldwide unitary taxation to water's edge taxation. This action would discriminate against domestic corporations in competing both in Alaska and overseas.

In your deliberation of tax legislation, we strongly urge you to maintain a level hand in regards to treating foreign and domestic companies equally. If water's edge taxation is to be used for foreign companies, it should, at a minimum, be available for domestic companies as a discretionary option to worldwide unitary taxation in a manner such as that used by the State of California.

Fluor Daniel Alaska is proud to be Alaskan but should not be forced to pay a premium over our foreign competitors.

Very truly yours,


George P. Wuerch
President and Regional Manager

GPW:jnr

9114E.115



Official Business

Alaska State Legislature

House of Representatives

Special Committee On Foreign Trade

P.O. Box V
State Capitol
Juneau, Alaska 99811
907-465-4942

TO: ALL MEMBERS,
SPECIAL COMMITTEE ON FOREIGN TRADE

FROM: REP. GEORGE JACKO, JR.,
CHAIRMAN

DATE: APRIL 21, 1989

SUBJ: HB 281

Enclosed are briefing materials on HB 281, the unitary tax bill. Since the information is lengthy and in part, somewhat complicated, it seemed appropriate to get it to you in advance of our committee meeting Monday morning. Please remember to bring the materials with you to the meeting.

The information was supplied by the Office of the Governor, with the exception of a statement from Susan Burke, representing IBM, in opposition to the Governor's proposed bill. Ms. Burke's statement includes draft language for an alternate bill she would propose.

As of this afternoon, those wishing to testify on the bill include:

- Sadami "Chris" Wada, Sony Corp. (teleconferenced from New York)
- Bill Noll (teleconferenced from Seward)
- Loren Lounsbury (teleconferenced from Anchorage)
- Dan Dixon (teleconferenced from Seattle)
- Bob Poe, Governor's Office of International Trade
- Gregg Erickson, Governor's Office of Management and Budget
- Susan Burke

HB 281

Modifying the Unitary Tax

Briefing materials
provided to the:

Alaska House of Representatives
Special Committee on International Trade
Rep. George Jacko, Chairman

Office of International Trade
April 24, 1989

Annotated Table of Contents

Basic source materials.

- Tab 1. HB 281, "An Act relating to required reporting methods for corporate income taxes...", with a summary and sectional analysis.
- Tab 2. Governors transmittal letter on HB 281.
- Tab 3. Fiscal note on SB 119 (identical to HB 281).
- Tab 4. Excerpt from the Governor's State of the State address, January 20, 1987, relating to the unitary tax issue.

Materials advocating elimination of the worldwide unitary tax system.

- Tab 5. "A Japanese Perspective--Is Worldwide Unitary Fair?" by Mitsuru Misawa, Industrial Bank of Japan, from *Sloan Management Review*, Winter 1985.
- Tab 6. "Walk Softly or Carry a Big Carrot," by Paul Laird, *Alaska Business Monthly*, February 1987.

Briefing materials provided by the Department of Revenue.

- Tab 7. "Water's Edge Combination--Opportunity for Uniformity?" published by the Multistate Tax Commission, no date.
- Tab 8. "Economic Development and Alaska's Corporate Income Tax: Reviewing the Options," a briefing paper prepared for Governor Cowper by the Department of Revenue, September 4, 1987.

Recent Japanese contacts and comments on Alaska's unitary tax.

- Tab 9. "Investment From Japan Essential to Diversification of [Alaska and Hawaii] State Economies," by Hideo Ishihara, Managing Director, Industrial Bank of Japan, and leader of the Keidanren mission to Alaska and Hawaii, from *Keidanren Review*, October 1988.
- Tab. 10. Keidanren Investment Mission to the United States of America, Alaska and Hawaii, September 1988, list of participants.

Annotated Table of Contents, *page 2*

Tab 11. Testimony of Sadami (Chris) Wada, Senior Vice President, Sony Corporation of America, in support of SB-119.

Materials prepared by the Staff Working Group on Unitary Taxation.

Tab 12. Attachments A-E to memo notifying members of Sept 15 working group meeting, September 10, 1987. Includes the working group's initial list of unitary options and other background data.

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 281

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to required reporting methods for
7 corporate income taxes owed by members of an affili-
8 ated group whose common parent is a corporation
9 incorporated outside the United States; and providing
10 for an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 * Section 1. It is the purpose of this Act to promote investment and
13 trade opportunities in the state.

14 * Sec. 2. AS 43.20 is amended by adding a new section to read:

15 Sec. 43.20.073. AFFILIATED GROUPS. (a) A corporation that is a
16 member of an affiliated group whose common parent is a corporation
17 incorporated outside the United States shall file a return using the
18 water's edge combined reporting method. A return under this section
19 shall include the following corporations if they are a part of a
20 unitary business:

21 (1) corporations included or includable in a consolidated
22 return for federal corporate income tax purposes;

23 (2) corporations incorporated in or doing business in any
24 state or United States possession or territory;

25 (3) domestic international sales corporations and foreign
26 sales corporations; and

27 (4) tax haven corporations.

28 (b) The department may require a corporation filing under this
29 section to file a worldwide combined report if

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 11, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the methods of corporate income tax reporting for certain taxpayers. This bill requires that corporations that are members of affiliated groups owned by foreign corporate parents file returns based on the "water's edge" method, instead of the "worldwide" method of tax accounting. The "water's edge" method is a taxing method that takes into consideration only the domestic activities of foreign corporations and does not consider income from their non-American operations.

The "worldwide" method of tax accounting has many virtues, but it is intensely disliked by most potential investors overseas. Virtually every other state that used the "worldwide" method has repealed it in recent years in order to increase investment and trade opportunities. There is simply no reason why Alaska should keep this barrier to investment on the books when other states have repealed it.

The next century, it is said, will be the era of the Pacific Rim. Alaska is strategically placed to participate fully in the booming economies of the region. I believe that we must take every step possible to encourage trade and investment in Alaska. This bill will remove a major psychological barrier to investment in the state while having only a minimal fiscal impact. I urge your prompt and favorable consideration of this bill.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Cowper".

Steve Cowper
Governor

*Office of the Governor
Division of Policy
19 April 1989*

Summary & Sectional Analysis

**HB 281
Legislation to Modify
Unitary Tax Provisions in Alaska Law**

This bill is designed to resolve objections by foreign business interests to Alaska's unitary corporate income tax. The bill disturbs the state's existing taxing arrangements as little as possible, consistent with the goal of removing the objectionable unitary provisions. Oil and gas taxpayers are not affected.

The legislation establishes a water's edge taxing regime for an affiliated corporate group, but if and only if the group is headed by a foreign parent corporation. The foreign parent corporation is not required to report, only the subsidiaries doing business in the U.S. Water's edge filing is not extended to foreign corporations that directly do business in Alaska.

Firms filing a water's edge report must provide a domestic disclosure spreadsheet verifying consistency among returns filed in different U.S. states. Income earned within the U.S. would still be subject to apportionment among the states. Firms using the water's edge reporting method may be required to provide data needed to audit their Alaska returns.

The fiscal note estimates that an annual revenue loss of \$60,000 would result from this legislation.

**Section 1* states that the purpose of the bill is to promote trade and investment opportunities.

**Section 2* amends the the Alaska [corporate] net income tax, AS 43.20, to require water's edge combined reporting for taxpayer corporations with foreign parents. The return is required to combine all elements and subsidiaries of the unitary business incorporated or doing business in the U.S., as well as certain special kinds of international corporations formed to reduce tax liability.

**Section 3* gives the bill retroactive application to tax years beginning after the last day of 1988.

**Section 4* provides for an immediate effective date.

January 17, 1989

INTRODUCTION AND REFERENCE OF SENATE BILLS

SB 119

SENATE BILL NO. 119 by the Rules Committee by request of the Governor, entitled:

"An Act relating to required reporting methods for corporate income taxes owed by members of an affiliated group whose common parent is a corporation incorporated outside the United States; and providing for an effective date."

was read the first time and referred to the Senate Special Committee on International Trade and Tourism, the Judiciary Committee, the Resources Committee and the Finance Committee.

Fiscal note published today from Department of Revenue. Zero fiscal note published today from Department of Commerce and Economic Development.

Governor's transmittal letter dated January 16:

Dear Senator Kelly:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the methods of corporate income tax reporting for certain taxpayers. This bill requires that corporations that are members of affiliated groups owned by foreign corporate parents file returns based on the "water's edge" method, instead of the "worldwide" method of tax accounting. The "water's edge" method is a taxing method that takes into consideration only the domestic activities of foreign corporations and does not consider income from their non-American operations.

The "worldwide" method of tax accounting has many virtues, but it is intensely disliked by most potential investors overseas. Virtually every other state that used the "worldwide" method has repealed it in recent years in order to increase investment and trade opportunities. There is simply no reason why Alaska should keep this barrier to investment on the books when other states have repealed it.

The next century, it is said, will be the era of the Pacific Rim. Alaska is strategically placed to participate fully in the booming economies of the region. I believe that we must

January 17, 1989

SB 119 cont'd

take every step possible to encourage trade and investment in Alaska. This bill will remove a major psychological barrier to investment in the state while having only a minimal fiscal impact. I urge your prompt and favorable consideration of this bill.

Sincerely,

/s/
Steve Cowper
Governor

SB 120

SENATE BILL NO. 120 by the Labor and Commerce Committee, entitled:

"An Act extending the termination date of the Alaska Public Utilities Commission; and providing for an effective date."

was read the first time and referred to the Labor and Commerce Committee and the Finance Committee.

SB 121

SENATE BILL NO. 121 by Senator Kerttula, entitled:

"An Act relating to conditions of scholarship loans; and providing for an effective date."

was read the first time and referred to the Health, Education and Social Services Committee and the Finance Committee.

SB 122

SENATE BILL NO. 122 by Senators Sturgulewski, Rode, and Zharoff, entitled:

"An Act authorizing treatment of a minor who misuses hazardous volatile materials or substances as a child in need of aid."

was read the first time and referred to the Health, Education and Social Services Committee.

TAIB 3

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: _____
PUBLISH DATE: _____

FISCAL NOTE

REQUEST: _____

Revision Date: November 18, 1988
Title: Alaskan Corporate Taxpayers with
Foreign Parent Corporations
Sponsor: Governor
Requestor: _____

Agency Affected: Revenue
BRU: Income and Excise Audit
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	0	(60.0)	(60.0)	(60.0)	(60.0)	(60.0)

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: See attached analysis

Prepared By: Steven E. Kettel
Division: Income and Excise Audit

Phone: (907) 465-2320
Date: November 18, 1988

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue

Date: November 18, 1988

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Prepared by: John Larson and
Steve Kettel
Alaska Department of Revenue
November 18, 1988

**Fiscal Note Analysis: Legislation Affecting Alaskan Corporate Taxpayers
with Foreign Parent Corporations**

The proposed legislation would require corporate income taxpayers with foreign parents to file on a water's edge combined basis beginning in calendar year 1989. The legislation would not affect taxpayers who currently file under AS 43.20.072 (Oil and Gas Producers and Pipelines). Nor would it affect Alaska corporations which do not have foreign operations. The total number of taxpayers affected and the total tax liability of these taxpayers are small.

In order to derive an estimate of the possible revenue impact of this proposed legislation the Department analyzed tax returns filed for the most recent tax year available - 1986. For tax year 1986 staff identified the tax returns of taxpayers with foreign parents. This methodology was designed to determine the potential revenue impact from only those taxpayers currently operating in Alaska. The Department did not estimate the potential revenue impact of incremental business activity in Alaska by corporations with foreign parents which may be induced by this proposed legislation.

Based on an analysis of the taxpayers which were identified as possibly being affected by the proposed legislation, the maximum tax liability decrease for tax year 1986 would have been no greater than \$60,000.

TAB 4

**Excerpt from Governor Cowper's State of the State address,
January 20, 1987:**

...The key to the new Alaska economy is marketing for our commodities, for our products, for our services....

With that overall goal in mind, my administration will ask you to adopt the following proposals for the permanent recovery of the Alaskan economy...

5. Repeal the unitary tax on multinational corporations, replacing the lost revenue through other means. The unitary tax was adopted as a means of making sure that expenses connected with drilling in Indonesia weren't deducted from Alaska tax returns. Its benefits are now outweighed by its disadvantages. Foreign investors are reluctant to locate in states which have a unitary tax because of the fear that those states might tax income earned elsewhere. A less threatening tax structure will make Alaska more attractive to those investors.

TAB J

SMR Forum: A Japanese Perspective — Is Worldwide Unitary Taxation Fair?

Mitsuru Misawa

Industrial Bank of Japan, Ltd.

Under a system of unitary taxation, a state government bases a corporation's income tax liability not on the earnings of the corporation's local subsidiaries but on earnings worldwide. Even if the subsidiary is losing money, it may be allocated some tax, based on the profitable performance of the corporation elsewhere. The author attacks this system as unfair and ineffective, causing double taxation, misallocation of resources, and various procedural difficulties. He also offers an alternative, the "water's-edge" approach, which would exclude income outside the U.S. from taxation by a state. Although not a perfect solution, the author advocates this as a means of eliminating the worst problems of unitary taxation. Ed.

Japan's direct investment in the United States is increasing steadily, having reached a balance of \$3 billion at the end of 1982 (which is equal to 36 percent of Japan's total investment worldwide). However, the future of this trend is now clouded by the system of a worldwide unitary taxation adopted by California and twelve other states.¹ Under unitary taxation, a state government determines a corporation's consolidated income worldwide and allocates its local subsidiary a pro rata income assessed on the evaluation of labor compensation, local assets, and sales proceeds. The validity of this method is open to question.

During his November 1983 visit to Japan, President Reagan was reminded of this problem by Prime Minister Nakasone.² Although the U.S. government is now looking into the matter, Japan's leading businesses are very much concerned about the outcome.

This past June, Keidanren (The Japanese Federation of Economic Organizations) dispatched a high-level unitary tax survey mission to the United States. Representatives from some twenty leading businesses³ visited a total of twenty-four states, including several where unitary taxation is applied.⁴ The purpose of this mission was to meet with government authorities (including governors) and encourage them to either abolish or not adopt unitary taxation. In this paper, I will attempt to summarize the problems that unitary taxation has created for Japanese corporations and then explore possible solutions.⁵

The Consequences of Unitary Taxation on Japanese Corporations

Several Japanese corporations with subsidiaries in California have encountered large state tax liabilities despite their lim-

ited sales within the state. This situation prevails even when a subsidiary is performing poorly in California.⁶ A newly established subsidiary is rarely profitable as debt service and amortization costs are particularly heavy in the initial years. Yet, even new firms are liable to taxation because of the performance of already well-established parent companies.

For example, Kyocera Corporation, a representative Japanese high-technology firm, paid a total of \$18 million in corporate income tax to the Internal Revenue Service over twelve years from 1972 through 1983.⁷ In this period, the corporation paid \$3.5 million to the state of California on a net income of \$22 million. However, with the imposition of unitary taxation, tax liabilities were recalculated to include corporate income earned throughout the world. Thus, the state levied an additional amount of \$21 million inclusive of interest accrued during an alleged delay in payment. Altogether, the state tax paid exceeded net income. In this case, the grievance against unitary taxation on the part of Kyocera Corporation appears to be justified.⁸

Given these circumstances, Kyocera has suspended its plan to enlarge its plant in San Diego, California. Instead, the firm may consider relocating to the state of Washington, which does not impose unitary taxation.

Another well-known electronics firm, NEC,⁹ has also suspended additional investment in California and is tentatively planning to invest in an optical fiber telecommunications plant in Oregon, where unitary taxation is expected to be abolished shortly.¹⁰

The Background of Unitary Taxation

The system of worldwide unitary taxation

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represents an attempt to replenish treasuries in several states that are troubled with revenue shortfalls. In southern states such as Georgia and Kentucky, where a balanced budget is a mandatory constitutional requirement, unitary taxation has never been proposed, and their governors have disclaimed any intention to introduce it in the future.¹¹

A number of consumer groups, on the other hand, are adamantly demanding enforcement of unitary taxation to prevent big business from getting away with paying little taxes. Thus, state governments might experience considerable opposition if they withdraw their commitment to unitary taxation.¹² For instance, a government would first have to secure an alternative source of revenues and then convince consumer groups that the tax burden would be equitably shared.

In a recent ruling, the U.S. Supreme Court upheld the constitutionality of unitary taxation.¹³ In this particular case, the corporation, which is incorporated in Delaware and doing business in California, and its overseas subsidiaries constituted a "unitary business." The "formula apportionment" method used by California did not violate the requirement of fair apportionment imposed by the due process clause of the U.S. Constitution.¹⁴ Application of the unitary business and formula apportionment method to overseas subsidiaries did not violate the Foreign Commerce Clause of the U.S. Constitution.

The Arm's-Length Approach

The litigant corporation had undertaken an alternative approach called the "arm's-length" approach, obeying the laws and relevant tax treaties of the U.S. federal government and other national governments under whose jurisdiction the corporation operates subsidiaries. By employing the arm's-length approach, a government imposes taxes only on incomes earned within its jurisdiction — provided that within a group of affiliated firms, each firm is legally treated as an independent entity and that the firms transact

with one another on an arm's-length basis. This ruling, however, leaves the question of foreign parent companies that are operating in the U.S. through U.S. subsidiaries unresolved. It seems worthwhile, therefore, for a Japanese firm like Kyocera to contest this point in court.

Problems for Japanese Corporations

The problems that Japanese corporations encounter with unitary taxation are listed below.

1. Tax Jurisdiction. Tax jurisdiction is considered to be counterbalanced by the benefits and protection provided by the authorities to the taxpayers also under their jurisdiction. Logically, therefore, tax jurisdictions cannot impound incomes accruing to the party outside the tax jurisdiction of the taxing authority. This is widely accepted as an international practice based on justice and equity. It is probably right to infer, therefore, that several states in the United States may not lawfully impose a tax on the foreign-based incomes of foreign corporations.

Although it is true that a group of affiliate firms is interdependent, and the total income of the group represents the fruit of its global activities straddling jurisdictional borders, the method of aggregating worldwide income and then apportioning the total to geographical jurisdictions in accordance with mere business indices is too mechanical to do justice to the complexities of actual business. This point is plain enough in the case of a Japanese corporation, with a U.S. subsidiary, that is gaining profits from the operations of its Southeast Asian and West European subsidiaries. Here, there is normally only a remote possibility for the U.S. subsidiary to contribute anything to the overall profits derived from the Asian or the West European operation. The system of unitary taxation requires, even in this case, the allotment of state tax based on the Asian or the West European operation.

2. Conflicting Taxation Principles. Both the United States and Japan use the arm's-length

approach in taxation, and thus it may be considered the internationally accepted approach. However, the action of some U.S. states in pursuing unitary taxation creates a complex situation for multinational corporations that have to deal with two differing taxation principles.

The arm's-length approach cannot cope with tax evasion effected through transfer pricing within a group of affiliates. In such cases, the tax revenue of the taxing authorities would perhaps suffer a decrease. However, the U.S. and Japan have no appreciable differences in the rates of corporate income taxes, and no merits exist in manipulative transfer pricing.¹⁵

3. Conceptual and Procedural Ambiguities. Conceptually and procedurally, the system of worldwide unitary taxation involves ambiguities, and there is no assurance that the relevant taxing authorities will not adopt an arbitrary stand. To assess the global aggregate income of an affiliate group, the three indices — assets, labor compensation, and sales proceeds — are considered of equal weight. This erroneous assumption is too simplistic to do justice to the complex management of a multinational corporation.

When a Japanese subsidiary constructs a new factory in the U.S., the required site must be purchased at the current price, which is entered on the subsidiary's books as the book value. The parent firm's land holdings in Japan, on the other hand, are recorded at their historical value. This use of asset values inflates the amount of tax liabilities in the United States.

4. Double Taxation. The corporate income of a multinational group is now subject to taxation in either the country of operation or residence. Worldwide unitary taxation — imposing tax liabilities on the foreign income of foreign corporations taxed already under arm's-length taxation — thus entails double taxation.

For example, a Japanese subsidiary in the United States owes tax liabilities to the state government, although, from the viewpoint of

the Japanese parent, tax is being levied on part of the parent's income. The parent cannot claim a tax deduction under Japanese law because the amount in question is levied on its U.S. subsidiary, not on the parent itself. State and local taxes are not covered by the Japan-U.S. tax treaty because the U.S. federal government has no power over them. For this reason, Japanese corporations cannot expect relief from the *ad hoc* consultation procedure set forth in the treaty.

An Alternative: The Water's-Edge Approach

The water's-edge approach to resolving the issue of unitary taxation, which has been advocated by a competent task force in the Treasury Department, appears to be a constructive proposal.¹⁶ This approach recommends that income earned outside the U.S. by a multinational group should be included in the income aggregation only if a number of conditions, which are described below, exist. Thus, the unitary taxation of incomes from interstate business activities would still remain a problem, but its international application would be theoretically eliminated in many cases.

Even so, there is a catch to this proposal. A wide range of corporations based outside the U.S. would continue to be subject to worldwide aggregation of income. These would include all corporations by which the average of the three indices for a foreign-based corporation amounted to more than 20 percent of the corporate activities (in terms of wages/salaries paid, assets held, and sales registered) to have originated in the United States. Global income assessment would also be applied if either wages/salaries paid in the U.S., or assets held in the U.S., or sales in the U.S. exceeded \$10 million. These provisos would effectively make most Japanese corporations subject to unitary taxation. Further, the same report demands wide-ranging financial disclosure by foreign-based corporations, which might conceivably involve inordinately large costs.

The range of disclosure includes: (1) submission to the state tax authorities of tax-related information concerning the parent

The Keidanren Group (Japanese Federation of Economic Organizations) is composed of the leading business executives in Japan, and operates much like The Business Roundtable in the United States. Maintaining close contact with various economic sectors in Japan and abroad, Keidanren endeavors not only to find practical solutions to economic problems but also contributes to the sound development of the economies of Japan and other countries.

firm; (2) the summarized listing of the amount of taxes paid to each state; and (3) oral explanation in response to a summons from the state tax authorities. To reinforce the legal obligation to respond to summonses, foreign-based firms must deposit a certain amount of money with the authorities. Accordingly, the firms that fail to meet fully these conditions of disclosure would be subject to worldwide unitary taxation.

This sort of disclosure requirement is not unjustifiable because the assessment of tax on multinational business activities presupposes a knowledge of intragroup dealings. In practice, however, several problems could arise. As a separate legal entity, the foreign parent firm of a U.S. subsidiary is not entirely free to furnish the kind of information required by this proposed approach. It should also be remembered that different states employ different taxation principles and procedures. The synopsis listing of tax payments to each and every state is, there-

fore, easier said than done. Furthermore, selective obligation to respond to the summons could constitute a discrimination against foreign-based firms.

The water's-edge approach as proposed by the Treasury Department task force is also problematical. It is hoped that with further refinement, this approach will take a form that will be considered reasonable by most multinational corporations.

Conclusion

The initiative for satisfactory settlement of this issue rests with each of the state governments and legislatures concerned. Having fully appraised the adverse effects of unitary taxation on direct investment in the United States, I would like to see those bodies take the constructive steps necessary to create more jobs and encourage economic prosperity within their states. This is the scenario most Japanese corporations strongly hope to see.

References

1

The other states include Massachusetts, Florida, Oregon, and Indiana.

2

Secretary of the Treasury Regan, who accompanied the president to Japan, stated that in considering unitary taxation, the apprehensions on the part of the Japanese government would be duly considered.

3

The membership included representatives of Nissan Motor Co., Toyota Motor Co., several other manufacturers, the Mitsubishi Corporation, several other trading houses, the Industrial Bank of Japan, and several other banks. The Federation of Economic Organizations is a voluntary association of some 1,000 businesses. It has a considerable influence on public policies and private managerial decision making.

4

California is of strategic importance to most Japanese corporations because approximately 1,000 out of the

3,000 Japanese corporations investing in the U.S. are based in California. This state raises an annual revenue of about \$400 million by — and appears firmly committed to — unitary taxation, according to the Nihon Keizai Shimbun (3 July 1984, p. 4).

5

I am solely responsible for the views herein expressed, which do not necessarily agree with the official standpoints of either the Federation of Economic Organizations or the Industrial Bank of Japan.

6

Apart from a few exceptions, most Japanese subsidiaries in California do not in fact perform better than their parents.

7

Kyocera is a pioneer in ceramic IC packages. It controls 70 percent of the world market for these products. Sales in 1983 was ¥133,230 million.

8

In June 1984, Kyocera deposited \$21 million requested with the judicial authorities and embarked on litigation

against the state government. See the Nihon Keizai Shimbun, 28 June 1984, p. 8.

9

NEC is a major maker of telecommunications equipment, electronic computers, and semiconductors. In the production of semiconductors, NEC is number 2 in the world. Its total sales in 1983 were ¥1,253,588 million.

10

In June 1984, the Keidanren mission met the governor of Oregon, who reconfirmed his commitment to the abolition of unitary taxation. This commitment has been put in writing by the governor and also by several leading members of the state legislature.

11

On this point, the Keidanren mission was very much concerned, and, in its meetings with Governors Harris of Georgia and Collins of Kentucky in June 1984, the mission sounded out their intentions. The governors disclaimed any intention to impose unitary taxation.

12

Following the visit of the Keidanren mission, it seems that some efforts have been made in the direction of the abolition of unitary taxation in California. On the other hand, it is widely acknowledged that its total abolition

cannot readily be attained. Sentiments in the state legislature seem to oppose any concessions to big business at a time when the state is unable to increase the salaries of underpaid schoolteachers. See Nihon Keizai Shimbun, 3 July 1984, p. 6.

13

See *Container Corporation of America v. Franchise Tax Board* (June 27, 1983).

14

See the Constitution of the United States, Article I, Section 8.

15

According to the Ministry of Finance of Japan, the effective rate of corporate taxation is 51.18 percent in the U.S. and 51.55 percent in Japan. If anything, exclusive submission to U.S. jurisdiction would be slightly advantageous for a multinational enterprise.

16

A task force of the Department of the Treasury submitted its report on May 1, 1984, to a working group chaired by the Secretary of the Treasury. The second and third proposals contained in this report advocate the water's-edge approach. Unitary taxation is a prerogative of the various states and the federal government has, therefore, no veto power in this matter.

TAB 6

Walk Softly or Carry a Big Carrot



Alaska's one of only three states that still tax corporations on the basis of worldwide earnings. If the state doesn't want its resources to walk softly in world markets forever, the worldwide reporting requirement may be one of the first big sticks it must drop to attract foreign investment in resource development.

BY PAUL LAIRD

LISTEN. Hear it? No? It's the thundering silence of Alaska's enormous resource and development potential walking softly and carrying a big stick in the international marketplace. So softly, in fact, that many foreign investors haven't been paying much attention.

Truth is, it never seemed to matter much what foreign investors thought about the big stick routine—you know, limited infrastructure and access to remote areas; high labor, construction and real estate costs, and an inhospitable climate. Weather-wise and tax-wise. Love us or leave us alone. Until recently, anyhow. With the steady stream of oil dollars flowing into an Alaskan economy we all knew had outlived the days of boom and bust (say hallelujah!), who had time to listen to those nattering nabobs of negativism preaching diversification or doom?

"The oil boom made us fat, dumb and happy," says Anchorage attorney Robert Breeze, who's been active in international affairs and is a director of the Alaska-Korea Business Council. "Now that it's over, we're starved, more astute and unhappy."

Cheer up. Alaska may have to carry a big carrot instead of a stick if it doesn't want to walk softly in the international arena forever, but the first step toward creating a more favorable foreign investment climate could turn out to be relatively painless yet symbolically significant: repealing the worldwide combined reporting requirement in the state's unitary tax and replacing it with a water's edge approach.

"Going to a water's edge approach alone won't bring more foreign capital into the state," says one foreign trade expert. "Taxes are just part of the package of what goes into a decision to invest in a project. But the worldwide reporting requirement is a major stumbling block. The Japanese and Koreans have as much as told other states that if they have a worldwide unitary tax, they won't invest there unless it's absolutely necessary."

Adds Dan Dixon, director of international affairs in the Alaska Department of Commerce & Economic Development, "The tax structure alone generally doesn't inhibit investment, because a fair and consistent system can be worked into profit-and-loss projections. But the tax system in Alaska is confusing and inherently unfair."

"It sends out a signal of greed, and most of the United States has realized worldwide combined reporting is stupid. It puts us in a rather lonely position when it comes to attracting foreign

investment, and when we're already not competitive in a lot of ways, why add in an onerous tax that doesn't do us any good? We can no longer presume that foreign investors will come here to develop our resources just because we have them. We have to realize we're competing on a global basis with other countries that have the same things."

Unitary taxation is based on the premise that various parts of a corporation engaged in related business activities—divisions, subsidiaries, plants, etc.—contribute equally to produce a single profit or loss. Its goal: to assure that each jurisdiction gets its "fair share" of corporate income when levying taxes.

Unitary tax is determined by calculating the percentage of a company's total business conducted in a given taxing jurisdiction and multiplying its total earnings by that percentage. Assets, sales and payroll commonly are used to determine that percentage. Advantage: The company can't structure its accounting so losses will be weighted toward activities in high-tax jurisdictions while profits are shifted to operations in low-tax states or countries.

If a widget company earns \$100,000 by extracting raw materials in Alaska, manufacturing them in Taiwan and operating its sales division out of Washington, and if 25 percent of the compa-

activities only, and if 60 percent of the company's U.S. assets, sales and payroll are in Alaska, Alaska corporate tax would be based on a \$30,000 profit.

Objections to the worldwide reporting method:

- It results in double taxation of profits from foreign operations.

- It adds an immense administrative burden by requiring multinational corporations to keep multiple sets of books and to translate all activities into English and U.S. dollars.

- At least in Alaska, enforcement is said to be inconsistent.

- It dilutes early-year tax losses for investments in capital-intensive projects and slows returns.

- The constitutionality of taxing overseas earnings of foreign-based multinationals has never been upheld by the U.S. Supreme Court.

- It's perceived by many foreign corporations and governments to be an invasion of privacy.

Concludes a January 1985 study of Korean interests in Alaska for then-House Speaker Joe Hayes, "The assumption underlying unitary tax—that a dollar of property, payroll and sales yields the same income wherever it may be—is patently false with respect to multinational corporations. The result is tremendous distortion and regular overallocation of the U.S. income of

domino to tumble was California, once the bastion of worldwide unitary taxation. Beginning Jan. 1, multinationals operating in California will have the option of sticking with the existing system of worldwide reporting or paying an annual fee based on California payroll, property and income to switch to a water's edge approach.

"California was literally losing foreign business investment to states without worldwide reporting," says Ken Hansen, a partner in the Sacramento office of Peat Marwick Mitchell & Co. "The Japanese were saying they wouldn't invest any more in California if the worldwide requirement weren't changed, and right after the vote to change the system, Sony announced it would substantially increase its investment in the state."

According to one report, Sony expects its California tax bill to drop by a third when the new system takes effect next year. One Japanese firm relocated to Washington when its California corporate tax actually exceeded its net income from operations in the state. While there's still resistance to some provisions of California's tax bill, foreign investors and governments for the most part seem to feel appeased.

Even with worldwide reporting, the state has captured more than 40 percent of all Japanese investment in the United

Worldwide Combined Reporting Method

$$\frac{\text{Alaska Sales}}{\text{Worldwide Sales}} + \frac{\text{Alaska Assets}}{\text{Worldwide Assets}} + \frac{\text{Alaska Payroll}}{\text{Worldwide Payroll}} \times \text{Worldwide Earnings} = \text{Income subject to Alaska corporate tax}$$

3

Water's Edge Reporting Method

$$\frac{\text{Alaska Sales}}{\text{U.S. Sales}} + \frac{\text{Alaska Assets}}{\text{U.S. Assets}} + \frac{\text{Alaska Payroll}}{\text{U.S. Payroll}} \times \text{U.S. Earnings} = \text{Income subject to Alaska corporate tax}$$

3

Separate Accounting

$$\text{Alaska Sales} - \text{Alaska Expenses} = \text{Income subject to Alaska corporation tax}$$

ny's sales, assets and payroll are in Alaska, its corporate tax liability in Alaska is based on a \$25,000 profit. That's *worldwide combined reporting*.

With a *water's edge* approach, only U.S. widget activities would be used in calculating state tax liability. Fair market value would be used to determine the value of raw materials extracted in Alaska and "sold" to the manufacturing division in Taiwan and the value of finished widgets shipped from Taiwan to be sold out of Washington. If the corporation earns \$50,000 from U.S.

multinational corporations.

"Because non-U.S.-based companies likely carry on a greater proportion of their business outside the U.S. than U.S.-based companies, the systematic overtaxation they suffer is correspondingly greater. These burdens may seriously discourage Korean investment in unitary states, i.e., Alaska..."

As recently as two years ago, 23 states had unitary tax systems with worldwide reporting requirements. Now: three. The other two: North Dakota and Montana. The most recent

States. Donald Fitzgerald, partner in charge of tax work in the Los Angeles law firm Manatt, Phelps, Rothenberg, Tunney & Phillips, notes foreign investors are reluctant to blackball a market as lucrative as California's on the basis of tax structure. That's why California has been able to impose an election fee to switch to water's edge reporting, while other states have dropped worldwide reporting with few or no strings attached.

California figures it will lose less than \$100 million in state revenues

1987 Now it's just Alaska.

Water's edge and the foreign dividend dilemma

SEPARATE ACCOUNTING? Unitary taxation with combined worldwide reporting? Unitary tax with the water's edge approach?

Did you *really* think any issue having to do with taxes was going to be as simple as choosing (a), (b) or (c)? Think again.

Once a state's chosen the water's edge approach, the fun has just begun. One of the thorniest issues for states that have made the switch is how or whether to tax dividends paid to U.S.-based multinationals by foreign subsidiaries.

The dilemma:

Do you exclude foreign dividends from water's edge taxes and give multinational corporations—U.S.- and foreign-based—a competitive edge over purely domestic corporations engaged in the same business? And conceivably encourage U.S. multinationals to invest outside the United States? (Illinois did.)

Do you include foreign dividends paid to U.S. multinationals and give foreign-based multinationals a competitive edge over both U.S. multinationals and purely domestic corporations? (California.)

Do you straddle the fence and tax only a portion of foreign dividends? What portion? (Oregon chose 15 percent.)

The issue may have little significance in Alaska. However, a 1984 study on unitary taxation in Alaska for then-House Speaker Joe Hayes suggested the competitive balance among Sohio Alaska Petroleum Co. (now Standard Alaska Production), ARCO Alaska and Exxon—the three dominant players in North Slope production—could be influenced. The report characterized Sohio as a foreign-based multinational, ARCO as "a mostly domestic corporation" and Exxon as a U.S.-based multinational.

annually due to the revision—a fraction of its estimated \$1.4 billion annual corporate tax take. Further, it expects that decline to be more than offset by property, income and sales taxes from new investment the change should spawn.

Nonetheless, the revision came only after intense lobbying and teeth gnashing within the state and pressure from the Reagan Administration. And a pair of not-so-gentle nudges from California's worldwide reporting-free neighbors to the north, Oregon and Washington.

Oregon lawmakers in June of 1984 adopted a water's edge approach that was implemented in 1986. Results were swift and impressive. Just prior to the repeal of worldwide reporting—but after it was apparent the measure would pass—Japan's Nippon Electric Corp. (NEC) announced it would build a fiber optics plant in the "Silicon Forest" area just outside Portland. Within weeks of the repeal, Fujitsu America finalized plans for a disk drive plant in the same area. Epson announced it would build a plant to make printers. Fuji Microelectronics unveiled plans to build a facility to manufacture semiconductors and computer chips, but Fuji's project reportedly since has been put on hold.

Says Glen Ulmer, tax partner in the Portland office of Arthur Andersen & Co. and member of a Portland Development Commission task force that went on several trade missions to the Far East



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prior to the repeal. "Some (Japanese) companies are tax-sensitive and others aren't. But no matter who we talked to, we had a difficult time explaining the (worldwide reporting) unitary issue."

"I think the repeal was critical in attracting new Japanese investment. It was a major statement that Oregon was open for business. You can't underestimate the importance of intangibles, and a state's attitude toward business is one of the most important factors."

Adds Les Fahey, tax partner in the Portland office of Peat Marwick Mitchell & Co., "California has a marketplace that's more lucrative than Oregon's; if California would have acted earlier, it probably would have gotten some of the investment that came here."

While the constitutionality of the use of worldwide reporting to determine state corporate taxes for foreign multinationals hasn't been tested, the U.S. Supreme Court has upheld its use in calculating taxes of U.S.-based multinationals. Pressure from the federal level to scrap worldwide reporting came at the prompting of foreign- and U.S.-based multinationals and other governments; Britain threatened to retaliate by imposing penalties on U.S. firms doing business there.

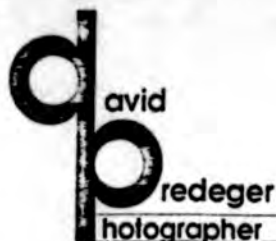
President Reagan resisted pressure to endorse a federal law against the worldwide reporting requirement on the basis that such a law would violate states' rights, but he did appoint a task force headed by then-Treasury Secretary Donald Regan to study the issue. Its recommendations:

- That states still using worldwide reporting should abandon it in favor of a water's edge approach;
- That the federal government should assist states in monitoring compliance with water's edge reporting;
- That a competitive balance be maintained among U.S.-based multinationals, foreign-based multinationals and purely domestic corporations.

"IT'S BEEN an emotional issue not just for the Japanese, but for Britain and West Germany, too," says Jim Thayer, manager of international investments in the State of Oregon's Economic Development Department. "Now that the pressure's off California, one of two things will happen: they'll either write off the others (Alaska, North Dakota and Montana) or they'll start putting more pressure on them. Alaska certainly is of the most interest of what's left."

Alaska's Dixon suggests Alaska should be positioning its ports as a cargo staging and assembly areas for European goods destined for Pacific Rim markets, and repeal of worldwide reporting is vital to that effort.

Alaska has had a unitary tax since before statehood. In recent years it's accounted for a fraction of state govern-



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ment's total revenues, and like state revenues in general, it's come almost exclusively from the oil industry.

"Worldwide reporting isn't significant at this moment in terms of attracting foreign investment into Alaska," maintains Michael Gay, executive director of corporate development for Calista Corp. and author of the study for former House Speaker Hays on Korean busi-

ness activities in the state. "But in the long term, it's very significant."

"Korea and Japan are natural markets for Alaska's resources. The Koreans and the Japanese aren't going to make the major commitments we need in Alaska to develop resources as long as the worldwide reporting requirement is in place. Feasibility studies, pre-feasibility studies, sure, but not major invest-

ments in development." Promoters of a handful of major resource development projects in Alaska note their negotiations with potential foreign investors haven't reached the point where state tax policy has been a significant issue.

Benefits to Alaska from foreign investment in resource development: shared risk, reliable markets, abundant capital. The state's Dixon maintains

Why oil curdles at the thought of (another) tax change

IN THE MIDST OF LAST YEAR'S MINI-DEBATE OVER whether to reimpose separate accounting on Alaska's oil industry, one long-time state legislator dismissed industry arguments that another change in the tax structure would reinforce business's perception that the state has an unstable tax climate and discourage investment in Alaska. "We've changed taxes nine times on the industry since statehood," he declared.

Is it any wonder the oil industry reaches for its Roloids whenever someone brings up the issue of changing the tax structure?

"Whenever you make a change in taxes, there's an expense involved in complying with it," assesses one business analyst.

Adds a state official, "Historically, any time there's been talk of changing taxes, it means some group of legislators has found a better way to gouge the oil companies."

The state first imposed separate accounting in 1978. Intent: to maximize state government's take from Prudhoe Bay production. Lawmakers returned to worldwide unitary taxation in 1981 when it appeared separate accounting could be unconstitutional and the state eventually could face a multibillion-dollar judgment against it. The system now in use has been in effect since 1981.

For most multinationals, state corporate tax is based on sales, assets and payroll. Exceptions: airlines, construction companies, companies involved in land transportation. And companies that produce oil or are involved in pipeline transportation.

Companies producing oil are taxed on the basis of assets and extraction.

Companies providing pipeline transportation are taxed on assets and sales.

Companies producing oil and providing pipeline transportation are taxed on extraction, assets and sales.

While corporate taxes account for a relatively minor portion of Alaska's total state revenues, the oil industry picks up about 90 percent of the corporate tax tab. (Surprise!)

It's unclear what impact a switch to water's edge unitary taxation from the current system of worldwide reporting would have on the state's biggest tax benefactor, largely because of the number of potential variations on the water's edge theme. Possibly little.

What is clear is that the oil industry is in no mood to talk change in the current climate of uncertainty. Says a tax attorney for one multinational, "You only have to look at what's happened to the industry in the last couple years to understand why we need some tax stability. Any kind of change would be perceived as Alaska not having a stable tax climate, and we need a bit of predictability in this kind of economy."

Not ironically, the oil industry is said to have been one of the biggest proponents of switching from worldwide

reporting to water's edge when the issue came up in California. Reason: Marketing and refining, the mainstays of oil's activities in California, historically haven't been as profitable as production overseas.

That's also been the reason for some Alaskan legislators' apparent penchant for separate accounting—a method in which sales and expenses are calculated on a state-by-state basis so corporate taxes can be levied on earnings attributable to operations within each state. Until the oil price collapse in 1986, North Slope production was more profitable than the average of earnings from all operations.

Vince Wright, chief of research for the Alaska Department of Revenue, says separate accounting is more oil price-sensitive than unitary taxation, and in the prevailing climate of \$14-per-barrel oil, separate accounting actually would yield less state revenue than worldwide unitary. The department is conducting a study to pinpoint the breakeven point for state revenues under various tax structures.

Must the oil industry—which loathes separate accounting in Alaska and longs for stability—and potential foreign investors—who loathe worldwide reporting, prefer separate accounting, but will settle for a change to water's edge reporting—forever be locked in an Alaskan standoff?

When California implements water's edge taxation next January, multinational corporations will have the option of staying with the current system of worldwide reporting or paying an annual fee based on California payroll, property and income to switch to water's edge reporting for a 10-year period. The annual water's edge election fee has been set at a maximum of 0.03 of a percent of the sum of those three factors, and the fee can be reduced to as little as 0.01 of a percent through new investment in the state.

The oil industry tax attorney, however, maintains it's unlikely initiatives for any change in Alaska's tax structure—even one that gives the industry the option of sticking with the status quo—will be supported by the oil industry. "We just don't feel an impetus for any kind of change right now."

Suggests one international trade expert, "The oil industry is just gun-shy. They're afraid that once the issue of taxes is on the table for review, anything can happen. And most of it's bad. They fear wolves in sheep's clothing."

Frank Danner, chairman of the Alaska-Korea Business Council and managing partner of the Anchorage office of Peat Marwick Mitchell & Co., maintains the oil industry could be one of the biggest long-range beneficiaries of a change to water's edge reporting.

Says he, "If the change brings more investment into Alaska and assists in diversifying our economy, there will be other industries to share the tax burden with the oil companies."

there's no shortage of debt capital in Alaska, but rather a shortage of venture capital. "Any time you have equity involvement, you don't want a project to fail. That's why the Japanese haven't pulled out of Sitka (Alaska Pulp Co.), and it's why the Beluga coal project and the gas line will go."

The controller for one foreign multinational operating within the state characterizes Alaska's attitude toward taxation as "cavalier" and maintains that image is a turnoff to potential investors. Adds Albert Kawabe, an Alaskan fish exporter operating out of Seward, "Enforcement is done on a project-by-project basis; there's no consistency. It's made me hesitant to try to convince my contacts they should invest in projects like shore-based processing facilities."

Shore-based bottomfish processing could represent one of the brightest short- to medium-term prospects for foreign investment in Alaska's resources. Instead of encouraging foreign investments in fishing ventures that will provide jobs for Alaskans, however, state policy has had the opposite effect.

Attorney Breeze says on-shore processing isn't competitive with high seas processing in Alaska because of labor costs, real estate and construction costs and taxes. Taxes often account for more than a third of a processor's operating costs, he says, and they represent a powerful tool for reducing the state's uncompetitiveness. Instead, the state has supported reduced allocations to foreign fleets and forced them into joint ventures with U.S. fishermen—often from Seattle.

Joint ventures assure foreign fleets supplies within the 200-mile U.S. limit, and by fishing and processing outside the three-mile state limit, they can avoid state corporate taxes. Breeze maintains that the proper package of incentives—repeal of the worldwide reporting requirement being one of them—Alaska could land 10 new on-shore processing plants costing \$10-\$20 million and having 100 to 200 employees each.

"IT SEEMS LIKE we often forget who our friends really are," he says. "The state has seemed to treat foreigners like they're on the other side of a competitive game. The Japanese, Koreans and Taiwanese have more of a holistic view of things. They figure they need help with fishing and we need help with some of our other resources; they can't figure out why we want to cut off one hand while we're massaging the other. They see us as quite schizophrenic."

There's debate over why foreign investors find worldwide reporting so onerous. One school of thought: The approach may have limited long-term impact on their bottom lines, but the primary objection is philosophical.



Frank Danner, chairman of the Alaska-Korea Business Council and managing partner of the Peat Marwick Mitchell office in Anchorage, says Orientals are "very close with their financial information. They view it as an invasion of privacy, and they don't want to invest where they're not wanted."

He adds foreign investors have "no love for the water's edge approach either" and would prefer separate accounting in which tax liability is calculated by subtracting expenses from sales on a state-by-state basis, "but they accept water's edge."

The other school: The bottom line is still the bottom line, and the goal of any business venture is to recapture initial investment as soon as possible. Any significant investment in developing Alaska's resources almost inevitably will result in substantial losses in the early years. By taxing profits on a worldwide basis, a multinational could find itself losing millions of dollars in Alaska yet paying the state corporate income tax on earnings elsewhere.

Says Calista's Gay, "Business is still business, no matter who's doing it. The investor isn't going to get any return at all until the project is developed and operating, and with some of the projects being looked at in Alaska, that could be as much as 10 years. The most important issue is economics, and investors have to have a way to get over that initial hurdle."

In other states, one of the primary concerns has been the impact of water's edge reporting on state government revenues. According to one study, the average corporate tax setback has been 15 to 25 percent. Oregon projected losing only \$18 million from its 1986-87 biennial budget, though, and there have been no studies of the impact of new investment on water's edge states' economies.

Peat Marwick's Danner: Economic diversification encouraged by a water's edge approach to corporate taxation should benefit Alaska's oil industry in the long term.

Alaska's Department of Revenue late in 1986 was studying how various tax systems would affect the state budget. Vince Wright, chief of the department's Research Section in Juneau, says an examination several years ago indicated water's edge reporting would have "no material impact."

Unlike other states, Alaska currently has no vehicle to benefit directly from increased investment stemming from a tax change. No state property tax. No personal income tax. No sales tax. While adopting a water's edge approach may not materially reduce state revenues, additional foreign investment may not materially increase them, either.

Nonetheless, worldwide reporting may be one of the big sticks the state will have to be willing to lay down if it's serious about attracting foreign capital to diversify its economy and it doesn't want to walk forever softly in world markets.

Says Peat Marwick's Danner, "I don't know that we get all that much (tax revenue) from foreign corporations anyhow, but with the intense competition for foreign investment, the benefits to the economy outweigh the revenues state government gets from worldwide reporting."

Adds Gay, major foreign investments in Alaska's development will mean "billions of dollars turning over in our economy for years to come. Our future is resource development, and in the longer term, foreign investment will be critical. But we need to send a message now that we want to make Alaska competitive and make it attractive to foreign investors."

Repeal of worldwide reporting may be the loudest and clearest message Alaska can send in the near term to show that it's ready to lay down the big stick and replace it with a carrot. □

TAB 7

Water's Edge Combination — Opportunity for Uniformity?

Richard Pinger

Richard Pinger, Senior Manager of Price Waterhouse in Houston, said that an opportunity to achieve uniformity has already been lost because nine states now apply water's edge combination but no two are alike. He said that water's edge is a fairness concept, but that it involves costs. For the taxpayer, the costs are those of return preparation and payment and the costs of compliance.

He said that dividends constitute the most important aspect of water's edge combination, but only for U.S. companies. He said that water's edge plus the inclusion of dividends without including factor relief is worse than worldwide combination.

He said that another problem is that of determining which corporations are includable in the combination. Seven of the nine states, he said, include all that are more than 50% commonly owned, one includes only 80% commonly owned corporations and one includes "unitary corporations." Four states include 936 corporations and five include them only partly. He noted other disparities.

Pinger said that eight of the states include at least a part of foreign dividends in the income base; that three provide some form of factor relief; that four states provide for water's edge to be allowed at the taxpayer's election but five require filing on the water's edge basis; that three make an election binding for three or more years; that two impose a fee for electing water's edge; and that only five have regulations.

All of those areas address the tax costs, he said, but the spreadsheets, which are provided for in the statutes of four of the nine states, will trigger tremendous compliance costs. He urged that those states be careful to see to it that any information required will be useful and that taxpayer compliance costs be considered. He expressed the hope that the four states would at least be uniform in establishing spreadsheet requirements. He said that this is the area that provides the best opportunity to attain some uniformity.

John James

Minnesota's Commissioner of Revenue reviewed the history of his state's use of the unitary method. The state first adopted domestic, but not water's edge, combination as of July 1, 1981. It included U.S. Possession corporations and 931 and 936 corporations and did not recognize the 80/20 concept. Historically, both foreign and domestic dividends were 80% excluded, which continued to be the case under domestic combination. Royalties from foreign subsidiaries were not excluded; nor was there ever any factor relief for intangible or foreign income.

In 1985, the legislature enacted two changes, excluding from the base: 1) 100% of foreign dividends; and 2) 100% of foreign royalties received by 80/20 corporations.

1986 legislation cut the foreign dividend exclusion back to 80% and cut the foreign royalty exclusion for 80/20s to 35%.

1988 legislation phases in various changes which will ultimately result in the following: retention of the 80% exclusion for foreign dividends (70% if the receiving company owns less than 80% of the paying company) with no factor relief; 80% exclusion of royalties received from a foreign subsidiary that is part of the receiving corporation's unitary business (no factor relief); foreign operating corporations, unitary 936s and 80/20s, are effectively treated as foreign corporations so that 80% of their income is excluded and the remaining 20% is treated as a fully taxed deemed dividend to the parent corporation (no factor relief). U.S. Possessions corporations are essentially treated as foreign corporations. Intangible operating business income other than that which qualifies for the 80% exclusion is fully included in income subject to factor relief which involves including such income in the sales factor.

James said that worldwide unitary combination is the appropriate approach conceptually, but that Minnesota has adopted what amounts to water's edge combination. In doing so, it seeks to provide comparable tax treatment for major foreign operations regardless of how organized.

Phil Aldape

Idaho's Income Tax Bureau Chief, who has also served as Chair of the MTC's Uniformity Committee for the past several years, said that water's edge combination is not what many people had expected. He said that there had been growing uniformity under the movement toward worldwide combination; that the business community had driven the movement toward water's edge and that, in doing so, it should have expected diverse results.

Aldape said that water's edge produces substantial reductions in the tax base as well as shifts in tax burdens; that the purpose of the water's edge movement, at least in the minds of legislators, was to produce an economic boom but that it is too early to determine its effects. He said that uniformity and ease of administration were not foremost in the minds of legislators as they adopted water's edge. He said that uniformity is desirable but that it should not become a means by which to restrict the tax base.

Aldape hoped that the spreadsheet would help the states administer their taxes effectively. He expressed the belief that some multinationals prefer non-uniformity even though many other businesses sincerely yearn for uniformity and consistency among the states; that most multinationals do not want uniformity on the condition of having to comply with spreadsheet requirements. He said that state administrative costs need to be taken into account and that increased uniformity can be helpful to them as well as to many taxpayers.

He said that those states which have excluded 80/20s from their water's edge base are particularly vulnerable to taxpayer tax avoidance tactics; that Section 482 adjustments are not a practical answer; and that non-combination states are at the mercy of the taxpayer because the states do not have the resources to deal with Section 482 problems.

Nevertheless, he does think that the states should continue to work for uniformity, that it is possible in the water's edge area, and that it is desirable for both the states and many

taxpayers. He said that the four states that have been working on the spreadsheet have been trying to limit the requirements by information that would be necessary, important, and useful and would promote uniformity.

He suggested that current water's edge legislation should remain unchanged for a couple of years. That, he said, would give states and taxpayers alike a chance to evaluate it from state to state; and would increase the chances that any changes to be made in the future would be constructive ones which would enhance uniformity.

Aldape concluded with the comment that uniformity, if it is ever to be achieved, will require a substantial amount of unselfish cooperation between the states and the business community, and that the MTC is uniquely qualified to coordinate that effort.

John LaFaver

Montana's Director of Revenue, who moderated this session, said that, as he listened to the presentations, "it struck me that the changes in the tax laws that we've seen now in the last two or three years in a number of states, moving away from worldwide to water's edge, have served to substantially increase the cost of compliance for both taxpayers and tax agencies. We have reduced the tax base in a number of states, we have moved the states away from uniformity, have shifted the tax burden, and we have looked for an economic boom that has not happened." Therefore, he said, "I have to wonder whether, somewhere down the road, we are not going to have to re-invent worldwide unitary" combination.

Sales Taxation of Services

Ron Shreiner, Wade Anderson, Steve Keene

Ron Shreiner, the South Dakota Revenue Secretary, Wade Anderson, Executive Counsel for the Texas Comptroller, and Steven N. Keene, Director of the New Mexico's Audit and Compliance Division, described the manner in which their states had approached the taxation of services. All agreed upon the importance of taxing this fastest growing segment of the nation's economy. Shreiner and Anderson emphasized the importance of bringing the business community into the legislative process early, implying that Florida's troubles traced to a failure to do so; and Keene thought that Florida had taken the wrong approach in specifying services to be taxed rather than enacting a broad tax on services subject to exemptions.

Walter Hellerstein

Walter Hellerstein, the U. of Georgia law professor who had participated in the drafting of the Florida law, responded that Florida had in fact brought the business community into the process early and that legislative staff members had met endlessly with industry; that the apportionment that had been applied to interstate service transactions had been requested by the business community, which had then turned around and attacked it; that the real reason for the subsequent repeal was that the advertising industry simply did not want to be taxed, and that that would have been true regardless of the approach

taken. He said that most other industries seemed to be willing to accept the tax as one that was needed to solve the state's fiscal problems. He predicted that most of the services which the legislation had addressed would end up being subjected to the tax anyway; but that the process would take longer and would be accomplished incrementally by expanding the base of the present sales/use tax in Florida.

Hellerstein said that some 50% of the GNP now consists of services and that the percentage is increasing. The states, he said, will have to take that into account in shaping their tax systems and will have to broaden their sales and use tax bases.

There is no economic distinction, he said, between the consumption of tangible personal property and the consumption of services. Eliminating the distinction between the two for tax purposes would greatly facilitate administration, and would bring an end to the extensive litigation which has been addressed to the distinction. He said that it would also increase tax neutrality between sales of services and sales of tangible personal property, that it would increase the responsiveness of the sales/use tax to changing economic conditions, and that it might be claimed to reduce regressivity, although he expressed doubt as to the validity of that claim.

Like the other speakers, he referred to special difficulties that are involved in the taxation of services, particularly sales for resale and sales across state lines. But he noted that the sale of services to business, even though the cost is included in the sales price of business products, does not necessarily conflict with current practices in many states with respect to sales of tangible personal property to business. He said that, if sales to business were exempted, the base would be so narrow that much higher rates would be required. Thus, he said, it is not possible to eliminate all pyramiding without making the base too narrow, whether talking about sales of tangible personal property or sales of services.

He noted that Florida had sought to tax consumption rather than performance, that that was consistent with the basic philosophy of treating a sales tax as a consumption tax, and that, in that context, the place where the service is performed is not relevant. This then raises the question as to whether one must apply apportionment with respect to a service that is used simultaneously in many jurisdictions. He thinks that, as a constitutional matter, apportionment is required. Florida considers a credit to be an adequate response to any multiple taxation complaint. Hellerstein said that debate will now center on the question of whether this is true.

He said that the U.S. Supreme Court would address that question in the pending cases of *G.T.E. Sprint v. Sweet* and *Goldberg v. Sweet*, Nos. 87-826 and 86-1101. There, Illinois imposes its tax on all receipts from telecommunications originating in or terminating in Illinois and billed to an Illinois service member, subject to a credit for tax paid on the same transaction and base to another state. He said that, while he believes that the credit deals effectively with the apportionment requirement, there remains the possibility that it will not satisfy Due Process requirements in all circumstances.

TAB 5

*Economic Development and Alaska's
Corporate Income Tax:*

REVIEWING THE OPTIONS

Briefing for Governor Steve Cowper
and senior state officials

prepared by

**The Alaska Department of Revenue
Hugh Malone, Commissioner**

A. SUMMARY OF THE ISSUE

In his state of the state message Governor Cowper outlined a 16-point program for permanent recovery of the Alaska economy, including a proposal to "repeal the unitary tax on multinational corporations, replacing lost revenue by other means. "Two weeks later the governor directed the Department of Revenue and the Division of Policy to "review Alaska's tax structure with an eye toward removing potential barriers to international trade. " The Governor specified that he had no preconceived notions about what the review might suggest. He noted, however, that that "the current unitary system appears to scare off potential investors in Alaska."

The Department of Revenue's preliminary review of the corporate income tax structure suggests that the economic development effects of changing the present structure may not be as anticipated. Of special concern to the Department is the additional uncertainty that changing the current structure will introduce into the state's revenues, and its unpredictable effects on the prospects for achieving the balance of the administration's legislative program.

B. NEED FOR BRIEFING AT THIS TIME

Completion of the Department of Revenue's preliminary analysis is an appropriate point for further consideration of the complex ramifications of any change in the corporate tax structure, and to bring diverse expert opinion to bear on the subject.

C. AGENCY INVOLVEMENT

The Department of Revenue administers the tax laws of the state. It has aggressively applied the worldwide combined reporting method to unitary businesses for approximately the last 15 years. The agency has developed expertise with the unitary concept at the audit and administrative level as well as for revenue forecasting purposes.

The Department of Commerce and Economic Development and the Office of International Trade also have an indirect interest in the unitary concept. The focus of the interest is upon promoting investment in Alaska and expanding the state markets. A number of foreign interests, most

notably the Japanese, have argued to these agencies that the unitary concept applied on a worldwide basis inhibits new investment in Alaska.

D. THE STATE POLICY CONSIDERATIONS

An extremely important function of state government is the establishment of fiscal policy. Included within this area is the setting of state tax policy. The state has the unilateral right and responsibility to determine and implement a taxing system that is in the best interest of the people of the state.

Tax policy can be weighed with actual increased foreign investment bringing into the state new jobs for Alaska residents and a broader tax base. The increased foreign investment must be real, not hypothetical or based upon empty promises, to counter any reductions in tax revenues that may result; if not, small domestic corporate taxpayers could be required to pay increased levels of taxes to offset the shortfalls.

E. THE APPROACH TO THE ISSUES

The first step in the weighing of the state tax policy considerations is the identification of the alternative methods of corporate income taxation. The experience of other states in moving to a different method of taxation is also important as an indicator of what the state might expect. The historical results of using tax policy to attract investment is a further consideration.