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APPROVED
DEC 15 1975

Signed
12/15/75

ACTION

THE WHITE HOUSE
WASHINGTON

Last Day: December 15

December 12, 1975

Past
12/16

To Archives
12/16

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: H.R. 5197 - To Authorize Foreign Employment on the SEAFREEZE ATLANTIC

Attached for your consideration is H.R. 5197, sponsored by Representative Leggett, which would amend the United States Fishing Fleet Improvement Act to authorize the owner of the fishing vessel SEAFREEZE ATLANTIC to employ foreign citizens as crew members for a four-year period from the date of enactment.

The SEAFREEZE ATLANTIC is one of a few U.S. ships designed to catch, process, freeze and store various species of fish. The vessel has been deactivated due to a number of problems, one of which is the difficulty in finding U.S. citizens or aliens legally domiciled in the U.S. who are willing to spend the long periods of time at sea required by this operation and who have the ability to operate the sophisticated equipment aboard the vessel.

Additional background information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus), NSC and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 5197 at Tab B.



A





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 9 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 5197 - To authorize foreign
employment on the SEAFREEZE ATLANTIC
Sponsor - Rep. Leggett (D) California

Last Day for Action

December 15, 1975 - Monday

Purpose

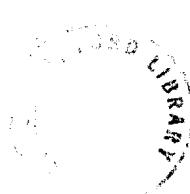
To authorize the owner of the fishing vessel SEAFREEZE ATLANTIC
to employ foreign citizens as crew members.

Agency Recommendations

Office of Management and Budget	Approval
Department of Commerce	Approval
Department of Justice	No objection
Department of Labor	Defers to Commerce

Discussion

H.R. 5197 would authorize the owner of the SEAFREEZE ATLANTIC
to employ foreign citizens as crew members for service as fisher-
men and fish processors for a four-year period from the date of
enactment. The bill would amend the United States Fishing
Fleet Improvement Act which requires that only U.S. citizens
and aliens legally domiciled in the U.S. ("domestic" citizens)
may be employed on fishing vessels built with Federal con-
struction subsidies.



Several conditions must be met at all times during the four-year period for the law to be operative. They are:

- the master and all officers of the vessel must be U.S. citizens;
- foreign employees may not exceed 60 percent of the crew;
- foreign citizens may be employed only as fishermen and fish processors; and
- the owner of the vessel must develop a program to hire and train "domestic" fishermen and fish processors.

At any time the Secretary of Commerce finds these provisions are not being observed, the exemption may be withdrawn.

For the provisions of H.R. 5197 to extend beyond four years, the owner of the vessel must demonstrate to the Secretary of Commerce that

- qualified "domestic" fish processors and fishermen are still not available,
- a continuing program to hire and train a "domestic" crew has been implemented and
- satisfactory progress is being made toward employment of an entirely "domestic" crew.

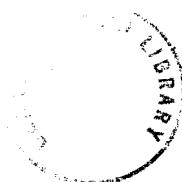
The Federal Government contributed half the \$5.2 million cost of the SEAFREEZE ATLANTIC as part of an effort to assist the U.S. fishing fleet to compete with cheaper, more sophisticated foreign fishing vessels. The SEAFREEZE ATLANTIC is one of the very few United States ships designed to catch, process, freeze, and store various species of fish. However, the vessel was deactivated because of (a) unanticipated problems with the resources of fish the ship was designed to catch; (b) financial problems; and (c) the difficulty of finding domestic crews qualified to operate the sophisticated equipment aboard the vessel.



In its views letter on the enrolled bill, the Labor Department states (a) that the bill would encourage the employment of foreigners over U.S. citizens, and (b) the mechanism for hiring foreign workers where there are no qualified Americans available already exists under the Immigration and Nationality Act. However, it defers to the Commerce Department. Commerce, on the other hand, notes its interest "in seeing the vessel successfully engaged as a productive unit in the domestic fisheries. H.R. 5197 would ameliorate at least one of the operational problems of the vessel." On balance, we recommend enactment of H.R. 5197.

James M. Frey
Assistant Director
for Legislative Reference

Enclosures



DEC 4 1975



THE UNDER SECRETARY OF COMMERCE
Washington, D.C. 20230

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning H.R. 5197, an enrolled enactment

"To authorize the employment of certain foreign citizens on the vessel SEAFREEZE ATLANTIC, Official Number 517242."

The purpose of H.R. 5197 is to allow, on a limited and temporary basis, the employment of foreign citizens on the vessel SEAFREEZE ATLANTIC. It would grant with respect to this vessel, a limited exception to the provisions of the United States Fishing Fleet Improvement Act, which require that only U.S. citizens and aliens legally domiciled in the United States may be employed on fishing vessels built with construction subsidies provided under that Act.

This vessel is presently deactivated. One of the reasons advanced for such deactivation is the difficulty in finding U.S. citizens or aliens legally domiciled in the United States to serve as crewmen.

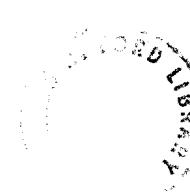
We are very much interested in seeing the vessel successfully engaged as a productive unit in the domestic fisheries. H.R. 5197 would ameliorate at least one of the operational problems of the vessel.

This Department recommends approval by the President of H.R. 5197.

Enactment of this legislation is not expected to involve any increase in the budgetary requirements of this Department.

Sincerely,

James A. Baker, III



Department of Justice
Washington, D.C. 20530

December 5, 1975

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

In compliance with your request I have examined a facsimile of the enrolled bill H.R. 5197, "To authorize the employment of certain foreign citizens on the vessel SEAFREEZE ATLANTIC, Official Number 517242."

The enrolled bill would authorize the employment of foreign citizens on the vessel SEAFREEZE ATLANTIC by authorizing an exception to the United States Fishing Fleet Improvement Act, which presently provides "... that the applicant (for subsidy for the building of new fishing vessels) will employ on the vessel only citizens of the United States or aliens legally domiciled in the United States," (46 U.S.C. 1402(5)). The exception would also transcend any other provision of law or any provision of any contract to which the United States is a party that also excludes the employment of foreign citizens aboard vessels constructed pursuant to 46 U.S.C. 1404-1413, for a four-year period beginning on the date of the enactment of H.R. 5197.

H.R. 5197 provides that the owner of the SEAFREEZE ATLANTIC may employ foreign citizens as crew members for service as fish processors or fishermen for a four-year period from the date of the enactment, provided at all times:

1. The master and all officers of the vessel are citizens of the United States.
2. 40 percent of the crew are United States citizens and aliens legally domiciled in the United States.
3. Foreign citizens employed aboard the vessel serve only as fishermen or fish processors.



4. The owner of the vessel undertakes a program to train and hire United States citizens and aliens legally domiciled in the United States as qualified fishermen and fish processors.

Should the Secretary of Commerce determine that the owner of the SEAFREEZE ATLANTIC is not in compliance with one or more of the foregoing provisions, the Secretary may prohibit the employment of foreign citizens aboard the vessel.

The enrolled bill ceases to apply at the end of the four-year period mentioned herein unless the owner of the SEAFREEZE ATLANTIC provides evidence satisfactory to the Secretary of Commerce that:

1. at the end of such period there are an insufficient number of United States citizens or aliens legally domiciled in the United States to serve as qualified fishermen or fish processors.
2. he has instituted and will continue a program to train United States citizens or legally domiciled aliens as fish processors or fishermen; and
3. he is making satisfactory progress, as determined by the Secretary in employing only United States citizens or legally domiciled aliens on the vessel.

During any such additional period, the Secretary is empowered to authorize the continued operation of the SEAFREEZE ATLANTIC with fishermen or fish processors who are foreign citizens under the conditions he deems appropriate, except that the application of the first three of the four conditions for employment mentioned hereinbefore shall be suspended.

This bill is not to be construed as an amendment to the United States Fishing Fleet Improvement Act except to the extent applicable to the SEAFREEZE ATLANTIC.

The Secretary of Commerce is authorized to amend any contracts entered into by the United States before the enactment of this Act in order to implement the provisions of

the Act and to insure its provisions will be complied with by the owner of the SEAFREEZE ATLANTIC. The Secretary may also amend any documents executed in connection with the construction and operation of the SEAFREEZE ATLANTIC, but if the owner does not consent to any amendment the Act shall cease to apply.

The Department of Justice has no objection to Executive approval of this legislation.

Sincerely,



Michael M. Uhlmann
Assistant Attorney General



U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

DEC 8 1971

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for our views and recommendations on the enrolled bill, H.R. 5197 to authorize the employment of certain foreign citizens on the vessel Seafreeze Atlantic, Official Number 517242.

This bill would permit the owner of the Seafreeze Atlantic, one of few American owned, advanced design trawlers, to employ foreign citizens on this vessel as fish processors and fishermen only for a four year period beginning on the date of enactment. The employment of such foreign citizens, however, would only be permitted if (1) the master and all officers of the vessel are United States citizens; (2) citizens of the United States and aliens legally domiciled in the United State comprise at least 40 percent of the crew; (3) the foreign citizens are employed only as fishermen or fish processors; and (4) the owner of the vessel undertakes to hire and train U.S. citizens and aliens legally domiciled in the United States as fish processors or fishermen aboard the vessel in order to assure a future supply of U.S. citizens and resident aliens who will be qualified as fish processors or fishermen aboard advanced design trawlers. The Secretary of Commerce would be empowered to prohibit the hiring of foreign citizens for this vessel if he finds that the owner of the Seafreeze Atlantic is not in compliance with the requirements enumerated above.

The Secretary of Commerce would be permitted to extend the period during which foreign citizens could be employed on this vessel, if the owner of the Seafreeze Atlantic provides satisfactory evidence that (a) there are not a sufficient number of qualified fish processors or fishermen, who are U.S. citizens or resident aliens, to fully man this vessel; (b) he has instituted and will continue a training program for U.S. citizens and resident aliens; and (c) he is making satisfactory progress in employing only U.S. citizens and resident aliens. This extension would be for such periods and under such conditions as the Secretary of Commerce deems appropriate, provided that requirements 1, 2 and 3 listed above are complied with.

100-11494-1

This bill would not be construed as a general amendment to the United States Fishing Fleet Improvement Act, which mandates, among other things, that only U.S. citizens and resident aliens be employed on vessels constructed under subsidy from the United States. It would only create an exception to that Act's provisions for this one vessel.

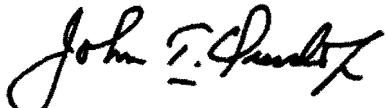
The Department of Labor opposes legislation that encourages the employment of foreign citizens over United States citizens or resident aliens. H.R. 5197 not only encourages the employment of foreign citizens, but it also creates an exception to a statute that specifically prohibits the hiring of foreign citizens in the employment involved in this instance.

The Department also opposes this legislation because a mechanism for hiring foreign workers, where there are no qualified Americans available, already exists under the Immigration and Nationality Act. That procedure should be used, rather than enacting specific legislative exemptions. At a time of high unemployment, we believe it is particularly important that existing mechanisms which protect American workers not be eroded.

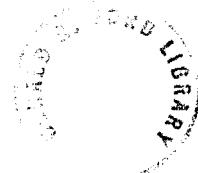
We are also concerned that this legislation brings another agency into the immigration field. This, we think, would set an unwise precedent.

However, under the circumstances and particular facts in this case, and because this bill requires the hiring and training of American workers, the Department of Labor does not recommend veto. We defer to the Department of Commerce.

Sincerely,



Secretary of Labor



J. C. Lawrence
10
12-9-75
5:30 p.m.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 3 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 5197 - To authorize foreign employment on the SEAFREEZE ATLANTIC
Sponsor - Rep. Leggett (D) California

Last Day for Action

December 15, 1975 - Monday

Purpose

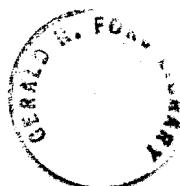
To authorize the owner of the fishing vessel SEAFREEZE ATLANTIC to employ foreign citizens as crew members.

Agency Recommendations

Office of Management and Budget	Approval
Department of Commerce	Approval
Department of Justice	No objection
Department of Labor	Defers to Commerce

Discussion

H.R. 5197 would authorize the owner of the SEAFREEZE ATLANTIC to employ foreign citizens as crew members for service as fishermen and fish processors for a four-year period from the date of enactment. The bill would amend the United States Fishing Fleet Improvement Act which requires that only U.S. citizens and aliens legally domiciled in the U.S. ("domestic" citizens) may be employed on fishing vessels built with Federal construction subsidies.



MEMORANDUM

8161

NATIONAL SECURITY COUNCIL

December 11, 1975

MEMORANDUM FOR: JAMES CAVANUAGH
FROM: Jeanne W. Davis *JWD*
SUBJECT: H. R. 5197

The NSC Staff concurs in H. R. 5197 - to authorize foreign employment on the SEAFREEZE ATLANTIC.



THE WHITE HOUSE

WASHINGTON

December 11, 1975

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M.L.*
SUBJECT: H.R. 5197 - To authorize foreign employment on
the Seafreeze Atlantic

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

DEC 10 1975

Date: December 10

Time: 900am

FOR ACTION: Paul Leach
Max Friedersdorf
Ken Lazaruscc (for information): Jack Marsh
Jim Cavanaugh

FROM THE STAFF SECRETARY

ERH

DUE: Date: December 11

Time: 500pm

SUBJECT:

H.R. 5197 - To authorize foreign employment on the
SEAFREEZE ATLANTIC

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

I would recommend that you add on page 2 a reason d on the last paragraph to read:

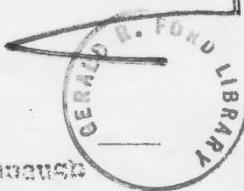
"The inability to recruit United States crews which would stay at sea for long periods required in this type of operation."

I think when you look at reason c, you will find difficulty in accepting that a foreign crew would have greater qualifications than an American crew in handling sophisticated equipment aboard the vessel.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cavanaugh
For the President



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: December 10

Time: 900am

FOR ACTION: Paul Leach *sd*
Max Friedersdorf *sd*
Ken Lazarus *or*
NSC/S or

cc (for information): Jack Marsh
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: December 11

Time: 500pm

SUBJECT:

H.R. 5197 - To authorize foreign employment on the
SEAFREEZE ATLANTIC

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cavanaugh
For the President



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: December 10

Time: 900am

FOR ACTION: Paul Leach
Max Friedersdorf
Ken Lazaruscc (for information): Jack Marsh
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: December 11

Time: 500pm

SUBJECT:

H.R. 5197 - To authorize foreign employment on the
SEAFREEZE ATLANTIC

ACTION REQUESTED:

- For Necessary Action For Your Recommendations
 Prepare Agenda and Brief Draft Reply
 For Your Comments Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection. -- Ken Lazarus 12/10/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
delay in submitting the required material, please
telephone the Staff Secretary immediately.

James H. Cavanaugh
For the President



SEAFREEZE ATLANTIC

JUNE 13, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. SULLIVAN, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 5197]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 5197) to authorize the employment of certain foreign citizens on the vessel *Seafreeze Atlantic*, Official Numbered 517242, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On page 1, lines 4 and 5, strike "(16 U.S.C. 1401 et seq.)" and insert in lieu thereof, "as amended (46 U.S.C. 1401-1413)".

On page 1, line 6, strike the word "Numbered" and substitute the word "Number" therefor.

On page 2, lines 3 and 4, strike "section 2(5)" and insert in lieu thereof, "item (5), section 2".

On page 3, lines 23 and 24, strike the words "Seafreeze Atlantic" and substitute "*Seafreeze Atlantic*" therefor.

On page 4, lines 6 and 7, change "Seafreeze Atlantic" to read "*Seafreeze Atlantic*" and add a comma thereafter.

On page 4, line 15, strike the words "Seafreeze Atlantic" and substitute "*Seafreeze Atlantic*" therefor.

Amend the title to read as follows:

To authorize the employment of certain foreign citizens on the vessel *Seafreeze Atlantic*, Official Number 517242.

PURPOSE OF THE BILL

The purpose of the legislation is to provide a narrow exception from the provisions of the United States Fishing Fleet Improvement Act (46 USC 1401, et seq.) which requires the employment of United States citizens or legally domiciled aliens on fishing vessels constructed with Fleet Improvement Act subsidies. This legislation would permit



the employment of foreign fishermen and fish processors for up to four years (or longer if specified conditions are met) on the *Seafreeze Atlantic*, an advanced design stern trawler constructed with Fleet Improvement Act subsidies and now laid up because of lack of U.S. fishing and fish processing crew. The overall objectives are returning this vessel to useful service, to provide jobs for U.S. seamen, to stimulate a training program which will provide job opportunities for U.S. fishermen and fish processors, and to encourage competition with modern foreign fishing fleets.

COMMITTEE ACTION

The bill was introduced on March 19, 1975, by Representative Robert L. Leggett, Chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment. That Subcommittee held hearings on June 5, 1975. The Department of Justice in its report indicated there was no objection to the enactment of this legislation.

The Department of Commerce, the agency responsible for implementing the Fishing Fleet Improvement Act, testified in support of the legislation as introduced, and strongly supported the overall objective of the legislation in bringing the *Seafreeze Atlantic* into service. In addition, favorable testimony was received from the Transportation Institute, the Maritime Trades Department of the AFL-CIO, and American Stern Trawlers, Inc., the owner of the *Seafreeze Atlantic*.

The Committee unanimously ordered reported to the House by voice vote, H.R. 5197, with amendments.

THE AMENDMENTS

The amendments to the bill were technical in nature.

NEED FOR THE LEGISLATION

In the 1950's a traditionally prosperous American fishing fleet began a precipitous decline. Our aging fleets came into intense competition with modern foreign vessels that replaced war decimated foreign fishing fleets. Imports poured into the United States at increasing levels at prices which the outmoded U.S. fleet could not match. By the 1960's, the U.S. fleet found itself unable to attract the capital needed to renovate the fleet. Foreign nations, especially Japan and the Soviet Union, systematically upgraded their fleets with more technically advanced and larger vessels, capable of distant water fishing for extended periods. The differential between U.S. and foreign labor costs allowed foreign countries to construct these new vessels for about one-half the cost of construction in the United States. Since 1973, the law has prohibited the documentation of foreign constructed fishing vessels weighing over five tons so U.S. fishermen were unable to purchase less expensive foreign vessels and could not afford comparable domestically constructed, modern fishing vessels.

Emergency assistance was required to remove the impediments to fleet modernization and Congress enacted the first fishing vessel differ-

ential construction subsidy program in 1960. It was limited to New England groundfishing and to 33½ percent subsidy participation by the federal government. Only ten new vessels, ranging in length from 73 feet to 124 feet, were constructed over four years, demonstrating that the 1960 Act was too limited to appreciably upgrade the domestic fishing industry. In 1964, Congress expanded the fish boat construction program with the Fleet Improvement Act. The annual authorization for the construction subsidy was increased from \$2.5 million to \$10 million and the federal subsidy level was raised to 50 percent. The Act specifically sought to stimulate construction of a fleet that would be competitive with the modern foreign factory ships that were laying off our coasts. The Act called for new vessels of advanced design utilizing modern gear and the best equipment available.

Among the many vessels constructed in response to this Act were the *Seafreeze Atlantic* and the *Seafreeze Pacific*, two 296-foot stern trawlers equipped with processing and refrigeration requiring a 40-man crew. These vessels were constructed at the Maryland Shipbuilding and Drydock at a cost of \$5.2 million each, with 50 percent being paid through federal subsidy.

The processing and freezing capacity of these vessels permitted extended voyages up to three months and the stowage of 1,000 tons of cargo. Under the conditions of their licenses, the *Seafreeze Atlantic* was permitted to fish for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), whiting, herring, mackerel, squid, and calico scallops in the Atlantic and Gulf areas. The *Seafreeze Pacific* was licensed to fish for groundfish on the West Coast.

Although this bill applies solely to the *Seafreeze Atlantic*, it should be noted that the *Seafreeze Pacific* has never functioned as originally intended. It was sold after three unsuccessful fishing voyages and its new owners converted the ship to processing crab and bonefish. Because of economic conditions in those markets, and operational problems, the ship has been idled for an extended time.

The *Seafreeze Atlantic* has experienced similar difficulties, primarily revolving around the unavailability of qualified fishermen and fish processors needed to operate the sophisticated equipment. Section 2(b) of the Fleet Improvement Act (46 USC 1402 (5)) requires that the owners of a subsidized vessel employ "only citizens of the United States or aliens legally domiciled in the United States". Therefore, the owners of the *Seafreeze Atlantic* had to rely on a labor pool that had no experience manning and operating this type of advanced factory ship. For the seven voyages that the *Seafreeze Atlantic* took in its first three years of operation, the owners had to hire fishing and fish processing crew from occupations unrelated to this type of work—factory hands, truck drivers, and seamen. Attempts were made to train the crew on board with foreign consultants who were experienced with the type of equipment used on board the *Seafreeze Atlantic*. The consultants, usually Norwegians and Germans, had difficulty communicating with the inexperienced crew, and in the process, large amounts of expensive equipment were damaged, costing extended lay-ups for repairs. Aside from lack of training, the crew suffered morale problems because they were not used to being at sea for periods up to five

weeks. As a result, most fishermen and fish processors stayed on board for one trip and the recruitment and training of new crew had to begin all over again. Under these conditions, it was obvious that American Export Industries, the owner of *Seafreeze Atlantic*, could no longer afford to operate the vessel. It is reported the owners lost \$11 million in this venture. In April 1971, the *Seafreeze Atlantic* was decommissioned and offered for sale.

Three years later, *Seafreeze Atlantic* was purchased by the present owners. Since April, 1974, the owners have had to absorb lay up costs in excess of \$200,000, while trying to develop a viable plan for returning *Seafreeze Atlantic* to useful and competitive service.

American Trawler, the present owners of *Seafreeze Atlantic*, have made a substantial investment, believing that given time, they can overcome the obstacles to effective use of this vessel. Since manning problems appear to be the root cause of excessive lay-up time and gear damage, the company believes training of skilled U.S. fishermen and fish processors is the key to effective operation.

H.R. 5197 is an integral part of this training concept. If U.S. fishing crews are to be trained and if the ship is to generate operating capital, foreign fishermen and fish processors will be needed for the initial period of training. The foreign workers are the only people who have the training and experience to carry out this task. The owners estimate foreign crews should be needed for no longer than four years.

The owners have worked closely with labor organizations that represent U.S. fishermen, and all agree that this temporary waiver from the restrictions of the Fishing Fleet Improvement Act is necessary if our fishermen hope to become efficient in the skills that are presently possessed by foreign fishermen. Once our domestic labor pool develops these skills, it is believed the training can be perpetuated, thereby encouraging operators to build advanced trawlers and factory ships.

Not only does the plan envision the full employment of U.S. fishermen and fish processors within four years, but H.R. 5197 does not waive the requirement that the officers and seamen of the *Seafreeze Atlantic* be U.S. citizens. The bill will create about 20 jobs for U.S. seamen that would not otherwise be available.

The Committee believes the plan developed by American Stern Trawlers is the best alternative. The Congress concededly would be making a narrow exception to the Fleet Improvement Act prohibition against use of foreign crews; however, since the purpose is limited to returning a large capital investment by government and private industry to competitive use and to training U.S. crews, the exception seems justified. The alternative would be to allow the vessel to stay in lay up. In the opinion of the Committee, this is not an acceptable alternative. It would waste a substantial government investment, it would foreclose jobs and job opportunities, as well as the training of skilled fishermen and fish processors, and would postpone indefinitely the entry of the U.S. into competition with modern foreign factory vessels. If the United States wants to reduce reliance of foreign fish imports which now account for more than 70 percent of our fish consumption, the Committee believes that an experiment like the one proposed by American Trawler should be made possible through this limited amendment to the Fleet Improvement Act.

CONCLUSION

The Committee hopes that by allowing this vessel to return to sea to carry out the purposes for which it was intended, that its success will encourage the construction of modern, competitive trawlers and factory ships and will lead to a revival of the U.S. fishing industry. The Committee is convinced that what is needed is a breakthrough in the manning shortages. By stimulating the development of a nucleus of fishermen skilled in modern fishing technology, who can in turn train other U.S. workers, this bill could be the key to the breakthrough. Because of the importance of this legislation to the industry, the Committee intends to watch the *Seafreeze Atlantic* venture closely and to call on the owners of the vessel for periodic reports on their operations and success of the training program in recruiting U.S. fishermen.

SECTION-BY-SECTION ANALYSIS

Section 1.—This provision recognizes that the purposes of the Fishing Fleet Improvement Act are being frustrated in the case of the *Seafreeze Atlantic* by the unavailability of skilled domestic fishermen and fish processors.

Section 2.—46 USC 1402(5) requires the owners to employ U.S. citizens or aliens legally domiciled in the United States as a condition of receiving construction subsidy. Section 2(a) provides a limited exception from this requirement for the *Seafreeze Atlantic* alone. The owners may employ some foreign crew, but only under the following conditions:

1. The exception allowing hiring of foreign crew will extend for four years only if (a) the master and all officers are citizens of the United States; (b) at least 40 percent of the total crew is composed of U.S. citizens or legally domiciled aliens; (c) the foreign citizens are employed solely as fishermen and fish processors, that is, they cannot be employed as seamen or engineers; and (d) the owner undertakes the hiring and training of U.S. citizens or legally domiciled aliens to assure a future supply of fishermen and fish processors for modern trawlers. This last requirement is vital since the legislation is directed not only toward the use of the *Seafreeze Atlantic*, but toward future modern trawlers which would require skilled fishermen and fish processors.

2. The exception will cease to apply during the four year period should the Secretary of Commerce make a finding that any of the four enumerated conditions is not met. Implicit in this section is an obligation on the Secretary of Commerce to obtain periodic reports from the owners of the vessel.

Section 3.—Under this Section, the Secretary of Commerce is authorized to extend the exception beyond four years if he finds (a) qualified U.S.-citizen and legally-domiciled-alien fishermen and fish processors are not available; (b) the owner of the *Seafreeze Atlantic* has instituted and will continue a training program for fish processors and fishermen; and (c) that progress is being made in employing U.S. citizens or legally domiciled aliens as fishermen or fish processors on the vessel.

Section 4.—This Section emphasizes the fact that this legislation is not a general amendment to the Fishing Fleet Improvement Act and that it is applicable only to the *Seafreeze Atlantic*. Furthermore, the conditions imposed by contract by the United States on the owners shall continue in effect except to the extent the Secretary has to amend the contract to implement this legislation.

COST OF THE LEGISLATION

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the committee estimates there will be no cost associated with the enactment of this legislation.

INFLATIONARY IMPACT STATEMENT

In accordance with clause 2(l)(4) of rule XI, of the Rules of the House of Representatives, the committee assessed the potential for inflationary impact and concluded there is none. If anything, the return to service of this highly efficient vessel, aimed at reducing foreign fish imports, should have an ameliorative impact on inflation.

OVERSIGHT FINDINGS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives—

(A) No oversight hearings have been made in connection with the Fishing Fleet Improvement Act and, therefore, no specific findings or recommendations are available at this time;

(B) Since Section 308(a) of the Congressional Budget Act of 1974 is not yet in effect, no statement under this paragraph is furnished;

(C) No estimate and comparison of costs has been received by the Committee from the Director of the Congressional Budget Office, pursuant to Section 403 of the Congressional Budget Act of 1974; and

(D) The Committee has received no report from the Committee on Government Operations of oversight findings and recommendations arrived at pursuant to clause 2(b)(2) of rule X.

DEPARTMENTAL REPORTS

The reports of the Department of Justice and the Department of Commerce on H.R. 5197 follow:

DEPARTMENT OF JUSTICE,
Washington, D.C., June 6, 1975.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of
Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 5197, a bill "To authorize the employment of certain foreign citizens on the vessel *Seafreeze Atlantic*, Official Numbered 517242."

The bill would authorize the employment of foreign citizens on the vessel *Seafreeze Atlantic*. It would provide an exception to 46 U.S.C. 1402(5) of the United States Fishing Fleet Improvement Act, 46

U.S.C. 1401–1413 (erroneously referred to as 16 U.S.C. 1401 et seq.), which provides “* * * that the applicant (for subsidy for the building of new fishing vessels) will employ on the vessel only citizens of the United States or aliens legally domiciled in the United States.”. The exception would also transcend any other provision of law or any provision of any contract to which the United States is a party that also excludes the employment of foreign citizens aboard vessels constructed pursuant to 46 U.S.C. 1401–1413, for a four-year period beginning on the date of the enactment of this Act.

The bill provides that the owner of the *Seafreeze Atlantic* may employ foreign citizens as crew members for service as fish processors or fishermen for a four-year period from the date of the enactment of the bill provided at all times:

1. The master and all officers of the vessel are citizens of the United States.
2. 40 percent of the crew are United States citizens and aliens legally domiciled in the United States.
3. Foreign citizens employed aboard the vessel serve only as fishermen or fish processors.
4. The owner of the vessel undertakes a program to train and hire United States citizens and aliens legally domiciled in the United States as qualified fishermen and fish processors.

Should the Secretary of Commerce determine that the owner of the *Seafreeze Atlantic* is not in compliance with one or more of the foregoing provisions, the Secretary may prohibit the employment of foreign citizens aboard the vessel.

The Act ceases to apply at the end of the four-year period mentioned herein unless the owner of the *Seafreeze Atlantic* provides evidence satisfactory to the Secretary of Commerce that:

1. at the end of such period there are an insufficient number of United States citizens or aliens legally domiciled in the United States to serve as qualified fishermen or fish processors.
2. he has instituted and will continue a program to train United States citizens or legally domiciled aliens as fish processors or fishermen; and
3. he is making satisfactory progress, as determined by the Secretary in employing only United States citizens or legally domiciled aliens on the vessel.

The Secretary is empowered to authorize the continued operation of the *Seafreeze Atlantic* with fishermen or fish processors who are foreign citizens under the conditions he deems appropriate, except that the application of the first three of the four conditions for employment mentioned hereinbefore shall not be suspended.

This bill is not to be construed as an amendment to the United States Fishing Fleet Improvement Act except to the extent applicable to the *Seafreeze Atlantic*.

The Secretary of Commerce is authorized to amend any contracts entered into by the United States before the enactment of this bill in order to implement the provisions of the bill. The Secretary may also impose any conditions to insure the provisions of the bill will be complied with by the owner of the *Seafreeze Atlantic*, and the Secretary may also amend any documents executed in connection with the construction and operation of the *Seafreeze Atlantic*, but if the owner does not consent to any amendment the bill shall cease to apply.

The Department of Justice has no objection to the enactment of this legislation.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

A. MITCHELL McCONNELL, Jr.,
Acting Assistant Attorney General.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., June 4, 1975.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of
Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: This is in response to your request for the views of this Department concerning H.R. 5197, a bill "To authorize the employment of certain foreign citizens on the vessel *Seafreeze Atlantic*, Official No. 517242."

The difficulty in finding U.S. citizens or aliens legally domiciled in the United States to serve as crewmen aboard the vessel has been advanced as one of the reasons for the vessel's deactivation. While we are not in a position to confirm the extent to which the crewing problem has contributed to the vessel's overall lack of success, it undoubtedly has been a factor.

This Department is very much interested in seeing the vessel successfully engaged as a productive unit in the domestic fisheries. We therefore support H.R. 5197, a bill which would ameliorate at least one of the operational problems of the vessel.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

BERNARD V. PARRETTE,
Deputy General Counsel.

CHANGES IN EXISTING LAW

If enacted, the bill technically would make no changes in existing law. It does, however, specifically affect item (5) of the United States Fishing Fleet Improvement Act (46 U.S.C. 1402). In order to understand the effects of the legislation on present law, the existing section is printed in roman type below, followed by the exclusion which is printed in italic.

UNITED STATES FISHING FLEET IMPROVEMENT ACT, AS AMENDED (46 U.S.C. 1401-1413)

* * * * *

§ 1402. Application for subsidy; conditions.

Any citizen of the United States may apply to the Secretary for a construction subsidy to aid in construction of a new fishing vessel in accordance with this chapter. Any citizen of the United States may

apply to the Secretary for a construction subsidy to aid in the remodeling of any vessel in accordance with this chapter. No such application shall be approved by the Secretary unless he determined that (1) the plans and specifications for the fishing vessel are suitable for use in the fishery in which that vessel will operate and suitable in the case of a new fishing vessel and, when appropriate, a remodeled vessel, for use by the United States for National Defense or military purposes in time of war or National emergency, (2) that the applicant possesses the ability, experience, resources, and other qualifications necessary to enable him to operate and maintain the proposed fishing vessel, (3) will aid in the development of the United States fisheries under conditions that the Secretary considers to be in the public interests, (4) that the vessel, except under force majeure will deliver its full catch to a port of the United States, (5) that the applicant will employ on the vessel only citizens of the United States or aliens legally domiciled in the United States, (6) the vessel will be documented under the laws of the United States, (7) the vessel will be modern in design and equipment, be capable, when appropriate, to operate in expanded areas, and will not operate in a fishery if such operation would cause economic hardship to operators of efficient vessels already operating in that fishery unless such vessel will replace a vessel of the applicant operating in the same fishery during the twenty-four-month period immediately preceding the date an application is filed by the applicant, and having a comparable fishing capacity of the replacement vessel, and (8) such other conditions as the Secretary may consider to be in the public interest. (Pub. L. 86-516, § 2, June 12, 1960, 74 Stat. 212; Pub. L. 88-498, § 2(2), Aug. 30, 1964, 78 Stat. 614; Pub. L. 91-279, § 1, June 12, 1970, 84 Stat. 307.)

* * * * *

H.R. 5197, AS REPORTED

*That the Congress finds that the purposes and objectives of the United States Fishing Fleet Improvement Act, as amended (46 U.S.C. 1401-1413) are not being fulfilled in the case of the large stern trawler *Seafreeze Atlantic*, Official Number 517242 (hereafter referred to in this Act as the "Seafreeze Atlantic"), a vessel of advanced design built under the provisions of that Act, because of the unavailability of skilled United States citizens or skilled aliens legally domiciled in the United States who can be employed as fish processors and fishermen aboard such vessel.*

*Sec. 2. (a) Notwithstanding any requirement of item (5), section 2, of the United States Fishing Fleet Improvement Act, of any other provision of law, or of any provision of any contract to which the United States is a party, during the four-year period beginning on the date of the enactment of this Act, the owner of the *Seafreeze Atlantic* may employ foreign citizens as crew members of such vessel for service as fish processors and fishermen if at all times during such four-year period—*

(1) the master and all of the officers of the vessel are citizens of the United States;

(2) citizens of the United States and aliens legally domiciled in the United States comprise not less than 40 percent of the crew;

(3) any foreign citizen so employed is only used as a fisherman or fish processor aboard the vessel; and

(4) the owner of the vessel undertakes to hire and train United States citizens or aliens legally domiciled in the United States as fish processors or fishermen aboard the vessel in order to assure a future supply of available United States citizens or aliens legally domiciled in the United States who will be qualified as fish processors or fishermen aboard advanced design trawlers.

(b) If at any time during such four-year period the Secretary of Commerce finds that the owner of the Seafreeze Atlantic is not in compliance with one or more of the conditions set forth in paragraphs (1) through (4) of subsection (a), the Secretary may prohibit the owner from employing foreign citizens as crew members of such vessel for such period of time as the Secretary deems appropriate.

SEC. 3. Section 2(a) of this Act shall cease to apply at the close of the four-year period referred to in such section; except that if the owner of the Seafreeze Atlantic provides evidence satisfactory to the Secretary of Commerce that—

(1) qualified fish processors or fishermen who are citizens of the United States or aliens legally domiciled in the United States will not be available in sufficient number for employment on the vessel after the close of such period;

(2) he has instituted and will continue a program to train United States citizen or legally domiciled aliens as fish processors or fishermen; and

(3) he is making satisfactory progress, as determined by the Secretary, in employing only United States citizens or legally domiciled aliens on the vessel; the Secretary of Commerce may permit the Seafreeze Atlantic to be operated with fishermen or fish processors who are foreign citizens for such additional periods and under such conditions as he deems appropriate; except that the conditions set forth in paragraphs (1), (2), and (3) of section 2(a) shall apply during any such additional period.

SEC. 4. The provisions of this Act shall not be construed as an amendment of the United States Fishing Fleet Improvement Act, except to the extent applicable to Seafreeze Atlantic, and any contract with the United States entered into before the date of the enactment of this Act with respect to the construction and operation of such vessel shall continue in full force and effect except that the Secretary of Commerce may amend any such contract in such a manner as he deems necessary in order to implement the provisions of this Act. The Secretary may impose such conditions as may be necessary to assure that the provisions of this Act will be complied with by the owner of the Seafreeze Atlantic and may undertake to amend appropriately any documents executed in connection with the construction and operation of such vessel, but if the owner does not consent to any such amendment, the Act shall cease to apply.

Amend the Title to read: To authorize the employment of certain foreign citizens on the vessel Seafreeze Atlantic, Official Number 517242.



94TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 94-474

“SEAFREEZE ATLANTIC”

R E P O R T
OF THE
SENATE COMMITTEE ON COMMERCE
ON
H.R. 5197

TO AUTHORIZE THE EMPLOYMENT OF CERTAIN FOREIGN
CITIZENS ON THE VESSEL *SEAFREEZE ATLANTIC*, OFFI-
CIAL NUMBER 517242



NOVEMBER 20 (legislative day NOVEMBER 18), 1975.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

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94TH CONGRESS
1st Session

SENATE

{ REPORT
No. 94-474

"SEAFREEZE ATLANTIC"

NOVEMBER 20th(legislative day, NOVEMBER 18), 1975.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Commerce,
submitted the following

REPORT

[To accompany H.R. 5197]

The Committee on Commerce, to which was referred the bill (H.R. 5197) to authorize the employment of certain foreign citizens on the vessel *Seafreeze Atlantic*, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE AND BRIEF DESCRIPTION

The purpose of the bill is to allow, on a limited basis, the employment of foreign citizens on the vessel *Seafreeze Atlantic*. The bill grants with respect to this vessel, a limited exception to the provisions of the United States Fishing Fleet Improvement Act (46 U.S.C. 1401, et seq.), which require that only U.S. citizens and aliens legally domiciled in the United States may be employed on fishing vessels built with construction subsidies provided under that act. The *Seafreeze Atlantic* was built with Federal construction subsidies, but it has been unable to operate and is presently laid up in Newport News, Virginia, because the vessel owners have been unable to hire qualified U.S. citizens and legally domiciled aliens for certain positions on the vessel.

The bill permits the vessel to operate with a limited number of foreign citizens employed as fishermen and fish processors only. The bill would require that, during the 4-year exemption period (or any renewal period): (1) the master and all the vessel's officers must be U.S. citizens; (2) at least 40 percent of the crew must be U.S. citizens or legally domiciled aliens; (3) foreign citizens may be employed only as fishermen or fish processors; and (4) the vessel owner

must seek to hire and train U.S. citizens or legally domiciled aliens to replace the foreign citizens as fishermen and fish processors. If any of these conditions are breached, the Secretary of Commerce may suspend the exemption for an appropriate period of time, until the conditions are met.

The exemption would be in force initially for 4 years. However, the Secretary of Commerce would be authorized to renew the exemption if the owner demonstrates to the Secretary's satisfaction that: (1) U.S. citizens or aliens legally domiciled in the United States are still not available as fishermen and fish processors; (2) the owner is pursuing a training program to qualify U.S. citizens and legally domiciled aliens for those jobs; and (3) there has been satisfactory progress in employing only U.S. citizens and legally domiciled aliens on the vessel.

Section 4 of the bill expressly provides that its provisions are not to be construed as an amendment of the United States Fishing Fleet Improvement Act, except to the extent that that act may be applicable to the *Seafreeze Atlantic*. Further, this section provides that any construction and operation contract between the vessel owners and the United States, entered into before the date of enactment of this bill, shall continue in force. However, the Secretary of Commerce may amend any such contract in any manner he deems necessary to implement the bill's provisions. Section 4 further authorizes the Secretary to impose any necessary conditions to assure that the provisions of this bill will be complied with by the *Seafreeze Atlantic*, and may amend appropriately any documents executed in connection with the construction and operation of the vessel to require compliance. If the owner does not consent to any such amendment, the vessel will not be allowed to hire foreign nationals.

BACKGROUND AND NEED

During the fifties, a traditionally prosperous American fishing fleet began a precipitous decline. The aging U.S. fleet came into intense competition with modern foreign fishing vessels operating with government subsidies and utilizing the most sophisticated equipment. Imports of fish products entered the United States at growing levels and at prices which the outmoded U.S. fleet could not match. By the sixties, the U.S. fleet found itself unable to attract the investment capital needed for renovation and growth. Foreign nations, especially Japan and the Soviet Union, systematically upgraded their fleets with more technically advanced and larger vessels, capable of distant-water fishing for extended periods. The differential between United States and foreign labor costs allowed foreign countries to construct these new vessels for about one-half the cost of construction in the United States. Since 1973, Federal law has prohibited the documentation of foreign constructed fishing vessels weighing over 5 tons in coastwide trade and fisheries of the United States. Consequently, U.S. fishermen are barred from purchasing less expensive foreign vessels and have not been able to afford comparable domestically constructed modern fishing vessels.

In the early sixties, Congress began to recognize the necessity of fleet modernization. In 1960, emergency assistance was provided through the enactment of the first fishing vessel differential construction subsidy program. This program was limited to the newer vessels

which would operate in the ground fishery off New England and authorized 33½ percent subsidy participation by the Federal Government. Only 10 new vessels, ranging in length from 73 to 124 feet were constructed over a 4-year period, demonstrating that the 1960 act was too limited to appreciably upgrade the domestic fishing industry. In 1964, Congress expanded the fishboat construction program with The Fishing Fleet Improvement Act. The annual authorization for the construction subsidy was increased from \$2.5 million to \$10 million and the Federal subsidy level was raised to 50 percent. The act specifically sought to stimulate construction of a fleet which would be competitive with the modern foreign factory vessels operating off U.S. shores. The act called for new vessels of advanced design utilizing modern gear and the best equipment available.

Among the vessels constructed in response to this act were the *Seafreeze Atlantic* and the *Seafreeze Pacific*, two 296-foot stern trawlers, equipped with processing and refrigerating equipment, each requiring a 40-man crew. These vessels were constructed by the Maryland Shipbuilding & Dry Dock Co. at a cost of \$5.2 million each, with 50 percent being paid through Federal subsidy.

The processing and freezing capacity of these vessels permits extended voyages of up to 3 months in length and the stowage of 1,000 tons of fish. Under the conditions of its license, the *Seafreeze Atlantic* was permitted to fish for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), whiting, herring, mackerel, squid, and calico scallops, in the Atlantic and gulf areas. The *Seafreeze Pacific* was licensed to fish for groundfish on the west coast.

Although this bill applies solely to the *Seafreeze Atlantic*, it should be noted that the *Seafreeze Pacific* also has never functioned as originally intended. It was sold after three unsuccessful fishing voyages and its new owners converted the ship to processing crab and bonefish. Because of economic conditions in these markets and operational problems, the ship has been idled for extended periods.

The *Seafreeze Atlantic* has experienced similar difficulties, primarily revolving around the unavailability of qualified fishermen and fish processors needed to operate the sophisticated equipment aboard the vessel. Section 2(b) of the Fishing Vessel Improvement Act (46 U.S.C. 1402(5)) requires that the owners of a subsidized vessel employ "only citizens of the United States or aliens legally domiciled in the United States". Therefore, the owners of the *Seafreeze Atlantic* have had to rely on a labor pool that has little or no experience manning and operating this type of advanced factory vessel.

For the seven voyages that the *Seafreeze Atlantic* took in its first three years of operation, the owners had to hire fishing and fish processing crew with experience unrelated to this type of work—factory hands, truck drivers, and seamen. Attempts were made to train the crew with foreign consultants who were experienced with the type of equipment used on the *Seafreeze Atlantic*. Consultants, usually Norwegians and Germans, had difficulty communicating with the inexperienced crew, and in the process, large amounts of expensive equipment were damaged, causing extensive layups for repairs. Aside from lack of training, the crew suffered morale problems because they were not used to being at sea for periods of up to 5 weeks. As a result, most fishermen and fish processors were with the crew for only one trip and the recruitment and training of a new crew then had to begin all over

again. Under these conditions, it was obvious that American Export Industries, the owner of *Seafreeze Atlantic*, could no longer afford to operate the vessel. It is reported that the original owners lost \$11 million. In April 1971, the *Seafreeze Atlantic* was decommissioned and offered for sale.

Three years later, the *Seafreeze Atlantic* was purchased by the present owners, American Stern Trawlers, Inc. Since April 1974, the owners have had to absorb lay-up costs in excess of \$200,000 while trying to develop a viable plan for returning the *Seafreeze Atlantic* to useful and competitive service. In summary, the owners have made a substantial investment, believing that given time, they can overcome the obstacles to effective use of this vessel. Since manning problems appear to be the root cause of excessive lay-up time and gear damage, the company believes training of skilled U.S. fishermen and fish processors is the key to effective operation. However, if U.S. fishing crews are to be trained, and if the ship is to generate operating capital, foreign fishermen and fish processors will be needed for an initial period of transition and training. Foreign workers are the only people who have the training and experience to carry out these tasks. The owners estimate, however, that foreign crews would be needed for no longer than 4 years.

The owners have worked closely with labor organizations which represent U.S. fishermen and seamen. Most agree that this temporary waiver from the restrictions of the Fishing Fleet Improvement Act is needed if our fishermen hope to become efficient in the skills that are presently possessed by foreign fishermen. Once our domestic labor pool develops these skills, it is believed that training can be perpetuated, thereby encouraging operators to build advanced trawlers and fishing vessels. It is particularly timely because the Committee expects that in the next few years the United States will have a 200-mile fishery conservation zone which will provide new opportunities for U.S. fishing companies. The bill is expected to create 20 new jobs for U.S. seamen which would not be available if the vessel remains in lay-up. In addition, it would still maintain the requirement that the officers of the vessel all be U.S. citizens and that at least 40 percent of the crew be U.S. citizens.

The committee has concluded that the plan developed by American Stern Trawlers is a better alternative than allowing the vessel to be laid up with the obvious ensuing waste of U.S. subsidy funds. This narrow exception to the Fishing Fleet Improvement Act is limited in both scope and duration. The alternative would be to leave the vessel in lay-up. The bill is needed to prevent the loss of a substantial government investment; to generate new job opportunities; to provide for training of skilled fishermen and fish processors; and to assure the entry of the United States into full competition with modern fishing vessels.

SECTION-BY-SECTION ANALYSIS

Section 1

This section contains the findings of Congress with respect to this bill. Specifically, Congress finds that the objectives of the U.S. Fishing Fleet Improvement Act (46 U.S.C. 1401-13) are not being realized in the case of the vessel *Seafreeze Atlantic*, Official Number 517242. This

vessel is a large stern trawler of advanced design. The failure to achieve the act's objectives is attributed to the unavailability of skilled U.S. citizens or aliens legally domiciled in the United States who can be employed as fishermen and fish processors aboard the vessel.

Section 2

The U.S. Fishing Fleet Improvement Act (46 U.S.C. 1402(5)) requires that only U.S. citizens and aliens legally domiciled in the United States may be employed aboard U.S. vessels which were constructed with the assistance of subsidies provided under this Act. Subsection (a) would provide a limited exemption from this requirement for the *Seafreeze Atlantic*, but only for this vessel. Under this provision, foreign nationals could be employed on the *Seafreeze Atlantic* under the following conditions: (1) the master and the vessel's officers must be U.S. citizens; (2) at least 40 percent of the crew must be composed of U.S. citizens or aliens domiciled in the United States; (3) foreign nationals may be employed only as fishermen or fish processors; and (5) the owner must undertake a hiring and training program to qualify U.S. citizens and legally domiciled aliens as fishermen and fish processors aboard the vessel. The exemption would continue in force for a 4-year period unless the owner fails to observe any of the required conditions. Subsection (b) empowers the Secretary of Commerce to suspend the provisions of this bill until the conditions are met.

Section 3

Section 3 authorizes the Secretary of Commerce to extend the duration of the exemption for an additional period of time if the vessel's owner demonstrates that (1) qualified U.S. citizens or aliens legally domiciled in the United States are still not available to be employed as fishermen and fish processors aboard the *Seafreeze Atlantic*; (2) a hiring and training program has been instituted and maintained; and (3) progress is being made in employing U.S. citizens and legally domiciled aliens on the vessel. The provisions of section 2 of the bill would apply during the new extension period.

Section 4

This section expressly provides that the bill, if enacted, is not to be construed as an amendment to the U.S. Fishing Fleet Improvement Act, except to the extent applicable to the *Seafreeze Atlantic*. In addition, any construction and operation contract between the owner of the vessel and the United States is to remain in force and the Secretary of Commerce may amend any such contract to require that the provisions of this bill be incorporated therein. This section further authorizes the Secretary of Commerce to impose reasonable and necessary conditions which would be inserted in any documents connected with the construction and operation of the vessel. If the owner refuses to agree to any such insertion, the provisions of this bill would not apply.

ESTIMATED COSTS

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the committee estimates that there will be no additional costs to the Federal Government as a result of the passage of this bill.

TEXT OF H.R. 5197, AS REPORTED

To authorize the employment of certain foreign citizens on the vessel *Seafreeze Atlantic*, Official Number 517242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that the purposes and objectives of the United States Fishing Fleet Improvement Act, as amended (46 U.S.C. 1401-1413) are not being fulfilled in the case of the large stern trawler *Seafreeze Atlantic*, Official Number 517242 (hereafter referred to in this Act as the "Seafreeze Atlantic"), a vessel of advanced design built under the provisions of that Act, because of the unavailability of skilled United States citizens or skilled aliens legally domiciled in the United States who can be employed as fish processors and fishermen aboard such vessel.

SEC. 2. (a) Notwithstanding any requirement of item (5), section 2, of the United States Fishing Fleet Improvement Act, of any other provision of law, or of any provision of any contract to which the United States is a party, during the four-year period beginning on the date of the enactment of this Act, the owner of the *Seafreeze Atlantic* may employ foreign citizens as crew members of such vessel for service as fish processors and fishermen if at all times during such four-year period—

(1) the master and all of the officers of the vessel are citizens of the United States;

(2) citizens of the United States and aliens legally domiciled in the United States comprise not less than 50 percent of the crew;

(3) any foreign citizen so employed is only used as a fisherman or fish processor aboard the vessel; and

(4) the owner of the vessel undertakes to hire and train United States citizens or aliens legally domiciled in the United States as fish processors or fishermen aboard the vessel in order to assure a future supply of available United States citizens or aliens legally domiciled in the United States who will be qualified as fish processors or fishermen aboard advanced design trawlers.

(b) If at any time during such four-year period the Secretary of Commerce finds that the owner of the *Seafreeze Atlantic* is not in compliance with one or more of the conditions set forth in paragraphs (1) through (4) of subsection (a), the Secretary may prohibit the owner from employing foreign citizens as crew members of such vessel for such period of time as the Secretary deems appropriate.

SEC. 3. Section 2(a) of this Act shall cease to apply at the close of the four-year period referred to in such section; except that if the owner of the *Seafreeze Atlantic* provides evidence satisfactory to the Secretary of Commerce that—

(1) qualified fish processors or fishermen who are citizens of the United States or aliens legally domiciled in the United States will not be available in sufficient number for employment on the vessel after the close of such period;

(2) he has instituted and will continue a program to train United States citizens or legally domiciled aliens as fish processors or fishermen; and

(3) he is making satisfactory progress, as determined by the Secretary, in employing only United States citizens or legally domiciled aliens on the vessel;

the Secretary of Commerce may permit the *Seafreeze Atlantic* to be operated with fishermen or fish processors who are foreign citizens for such additional periods and under such conditions as he deems appropriate; except that the conditions set forth in paragraphs (1), (2), and (3) of section 2(a) shall apply during any such additional period.

SEC. 4. The provisions of this Act shall not be construed as an amendment of the United States Fishing Fleet Improvement Act, except to the extent applicable to *Seafreeze Atlantic*, and any contract with the United States entered into before the date of the enactment of this Act with respect to the construction and operation of such vessel shall continue in full force and effect except that the Secretary of Commerce may amend any such contract in such a manner as he deems necessary in order to implement the provisions of this Act. The Secretary may impose such conditions as may be necessary to assure that the provisions of this Act will be complied with by the owner of the *Seafreeze Atlantic* and may undertake to amend appropriately any documents executed in connection with the construction and operation of such vessel, but if the owner does not consent to any such amendment, the Act shall cease to apply.

AGENCY COMMENTS

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., August 29, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department concerning H.R. 5197, a House-passed bill to authorize the employment of certain foreign citizens on the vessel *Seafreeze Atlantic*, official No. 517242.

The difficulty in finding U.S. citizens or aliens legally domiciled in the United States to serve as crewmen aboard the vessel has been advanced as one of the reasons for the vessel's deactivation. While we are not in a position to confirm the extent to which the crewing problem has contributed to the vessel's overall lack of success, it undoubtedly has been a factor. Testimony at the House hearings on the bill tended to support the proposition that crewing has been a problem and we know of nothing to refute that testimony.

This Department is very much interested in seeing the vessel successfully engaged as a productive unit in the domestic fisheries. We therefore support H.R. 5197, a bill which would ameliorate at least one of the operational problems of the vessel.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the administration's program.

Sincerely,

KARL E. BAKKE,
General Counsel.

DEPARTMENT OF JUSTICE,
Washington, D.C., October 10, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 5197, an act to authorize the employment of certain foreign citizens on the vessel *Seafreeze Atlantic*, official No. 517242.

The act would authorize the employment of foreign citizens on the vessel *Seafreeze Atlantic*. It would provide an exception to 46 U.S.C. 1402(5) of the United States Fishing Fleet Improvement Act, which provides "... that the applicant (for subsidy for the building of new fishing vessels) will employ on the vessel only citizens of the United States or aliens legally domiciled in the United States.". The exception would also transcend any other provision of law or any provision of any contract to which the United States is a party that also excludes the employment of foreign citizens aboard vessels constructed pursuant to 46 U.S.C. 1404-1413, for a 4-year period beginning on the date of the enactment of this act.

The act provides that the owner of the *Seafreeze Atlantic* may employ foreign citizens as crew members for service as fish processors or fishermen for a 4-year period from the date of the enactment of the act provided at all times:

1. The master and all officers of the vessel are citizens of the United States.
2. 40 percent of the crew are U.S. citizens and aliens legally domiciled in the United States.
3. Foreign citizens employed aboard the vessel serve only as fishermen or fish processors.
4. The owner of the vessel undertakes a program to train and hire U.S. citizens and aliens legally domiciled in the United States as qualified fishermen and fish processors.

Should the Secretary of Commerce determine that the owner of the *Seafreeze Atlantic* is not in compliance with one or more of the foregoing provisions, the Secretary may prohibit the employment of foreign citizens aboard the vessel.

The act ceases to apply at the end of the four-year period mentioned herein unless the owner of the *Seafreeze Atlantic* provides evidence satisfactory to the Secretary of Commerce that:

1. At the end of such period there are an insufficient number of U.S. citizens or aliens legally domiciled in the United States to serve as qualified fishermen or fish processors.
2. He has instituted and will continue a program to train U.S. citizens or legally domiciled aliens as fish processors or fishermen; and
3. He is making satisfactory progress, as determined by the Secretary in employing only U.S. citizens or legally domiciled aliens on the vessel.

The Secretary is empowered to authorize the continued operation of the *Seafreeze Atlantic* with fishermen or fish processors who are foreign citizens under the conditions he deems appropriate, except that the application of the first three of the four conditions for employment mentioned hereinbefore shall be suspended.

This act is not to be construed as an amendment to the United States Fishing Fleet Improvement Act except to the extent applicable to the *Seafreeze Atlantic*.

The Secretary of Commerce is authorized to amend any contracts entered into by the United States before the enactment of this act in order to implement the provisions of the act and to insure its provisions will be complied with by the owner of the *Seafreeze Atlantic*. The Secretary may also amend any documents executed in connection with the construction and operation of the *Seafreeze Atlantic*, but if the owner does not consent to any amendment the act shall cease to apply.

The Department of Justice has no objection to the enactment of this legislation.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

MICHAEL M. UHLMANN,
Assistant Attorney General.

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H. R. 5197

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

To authorize the employment of certain foreign citizens on the vessel *Seafreeze Atlantic*, Official Number 517242.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that the purposes and objectives of the United States Fishing Fleet Improvement Act, as amended (46 U.S.C. 1401-1413) are not being fulfilled in the case of the large stern trawler *Seafreeze Atlantic*, Official Number 517242 (hereafter referred to in this Act as the "Seafreeze Atlantic"), a vessel of advanced design built under the provisions of that Act, because of the unavailability of skilled United States citizens or skilled aliens legally domiciled in the United States who can be employed as fish processors and fishermen aboard such vessel.

SEC. 2. (a) Notwithstanding any requirement of item (5), section 2, of the United States Fishing Fleet Improvement Act, of any other provision of law, or of any provision of any contract to which the United States is a party, during the four-year period beginning on the date of the enactment of this Act, the owner of the *Seafreeze Atlantic* may employ foreign citizens as crew members of such vessel for service as fish processors and fishermen if at all times during such four-year period—

- (1) the master and all of the officers of the vessel are citizens of the United States;
- (2) citizens of the United States and aliens legally domiciled in the United States comprise not less than 40 percent of the crew;
- (3) any foreign citizen so employed is only used as a fisherman or fish processor aboard the vessel; and
- (4) the owner of the vessel undertakes to hire and train United States citizens or aliens legally domiciled in the United States as fish processors or fishermen aboard the vessel in order to assure a future supply of available United States citizens or aliens legally domiciled in the United States who will be qualified as fish processors or fishermen aboard advanced design trawlers.

(b) If at any time during such four-year period the Secretary of Commerce finds that the owner of the *Seafreeze Atlantic* is not in compliance with one or more of the conditions set forth in paragraphs (1) through (4) of subsection (a), the Secretary may prohibit the owner from employing foreign citizens as crew members of such vessel for such period of time as the Secretary deems appropriate.

SEC. 3. Section 2(a) of this Act shall cease to apply at the close of the four-year period referred to in such section; except that if the owner of the *Seafreeze Atlantic* provides evidence satisfactory to the Secretary of Commerce that—

- (1) qualified fish processors or fishermen who are citizens of the United States or aliens legally domiciled in the United States will not be available in sufficient number for employment on the vessel after the close of such period;

H. R. 5197—2

(2) he has instituted and will continue a program to train United States citizens or legally domiciled aliens as fish processors or fishermen; and

(3) he is making satisfactory progress, as determined by the Secretary, in employing only United States citizens or legally domiciled aliens on the vessel;

the Secretary of Commerce may permit the *Seafreeze Atlantic* to be operated with fishermen or fish processors who are foreign citizens for such additional periods and under such conditions as he deems appropriate; except that the conditions set forth in paragraphs (1), (2), and (3) of section 2(a) shall apply during any such additional period.

SEC. 4. The provisions of this Act shall not be construed as an amendment of the United States Fishing Fleet Improvement Act, except to the extent applicable to *Seafreeze Atlantic*, and any contract with the United States entered into before the date of the enactment of this Act with respect to the construction and operation of such vessel shall continue in full force and effect except that the Secretary of Commerce may amend any such contract in such a manner as he deems necessary in order to implement the provisions of this Act. The Secretary may impose such conditions as may be necessary to assure that the provisions of this Act will be complied with by the owner of the *Seafreeze Atlantic* and may undertake to amend appropriately any documents executed in connection with the construction and operation of such vessel, but if the owner does not consent to any such amendment, the Act shall cease to apply.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

December 3, 1975

Dear Mr. Director:

The following bills were received at the White House on December 3rd:

H.R. 5197 ✓
H.R. 6971 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.