(A) The effects of limiting or prohibiting the transferability of such quotas

Excessively limiting, or prohibiting, the transferability of IFQs could negate social or economic benefits, and prevent the market from rationalizing the fisheries. This would force a retreat to taxpayer-funded capacity reduction programs, or other historically unsuccessful or untried methods of promoting social and economic benefits and ensuring effective conservation and management of the fisheries.

Under the halibut/sablefish IFQ program in Alaska, there are certain transferability limitations imposed to achieve social and economic goals. Quota shares, for example, are limited in the amount that any single person or other entity may own or control. No individual may acquire more than 1% of the quota shares ("QS") for sablefish, and no more than .5% for halibut. This is done so that no entity could become a controlling element in the marketplace. The QS also is designated as blocked and unblocked. QS that amount to less than 20,000 pounds (blocked units), are restricted, so that an entity may only own two such units in any single regulatory area. This is done to help provide quota shares in small amounts for entry-level participants.

The most significant social element that relates to transferability designed into the halibut/sablefish program is the requirement of new entrants, who purchase QS, be present on the vessel when the QS is harvested. This is intended to help evolve the industry into a completely owner-operated fleet to encourage stewardship of the fisheries, promote professionalism on the vessel, and return profits to U.S. fishermen.

In case of the pre-IFQ, open-access halibut fisheries, the Secretary of Commerce and the North Pacific Council were faced with 4,000-5,000 vessels participating in any given halibut opening, which resulted in conducting two, 24-hour openings. Prohibiting or excessively limiting transferability gives rise to the following problems and concerns:

1. Without transferability, the only way that fleet reductions could take place is by taxpayer-funded license or vessel "buybacks" or measures which compel fleet reduction without compensation. An example of the latter is the statutorily compelled removal of certain vessels, as proposed in S.1221, a bill introduced in 1997 to address non-IFQ fisheries that are overcapitalized. The halibut fleet is allowed to transfer QS, and as a result, the pre-IFQ fleet in 1994 was 3,970 vessels, and in 1996, was 2,768, representing the consolidation of 1,202 vessel operations. This has resulted

in a more stable economic situation for the vessel owners and crews who have chosen to remain. In severely overcapitalized industries, the inability to transfer quota would negate one of the more positive attributes of an IFQ program, because the equity value of the QS is used by the fishermen to buy themselves out. The alternatives are expensive to the taxpayer or ruinous to vessel owners. Such alternatives may also, for those reasons, be difficult to impose. In the absence of transferable quotas, there may be, in any given case, no effective means of reducing overcapacity for the benefit of resource conservation, the industry, and dependent communities.

2. Most fishermen develop equity in a fishing vessel, and when they retire, they sell the vessel and the equity in the business. The sale of the business serves significantly as the basis for retirement. If the QS that the vessel has been operating on is not transferable, the vessel then has very little economic viability. The retirement picture would significantly deteriorate for most family-owned fishing operations. This would mean a vessel owner would need to take a greater share of the proceeds in order to cover the uncertainty of selling out the business. This would result in lower shares to the crew.

In summary, judiciously limiting transferability, as has been done in the halibut/sablefish program, can help achieve certain conservation, social and economic goals. Excessive limitations or a prohibition on transferability would likely make the achievement of those goals difficult or impossible.

(B) Mechanisms to prevent foreign control of the harvest of United States fisheries under individual fishing quota programs, including mechanisms to prohibit persons who are not eligible to be deemed a citizen of the United States for the purpose of operating a vessel in the coastwise trade under section 2(a) and section 2(c) of the Shipping Act, 1916 (46 U.S.C. 802 (a) and (c)) from holding individual fishing quotas

Certain mechanisms to prevent foreign control of the harvest of U.S. fisheries under individual fishing quota programs are currently available without new legislation. The halibut/sablefish program operating in Alaska has the following requirements to maintain U.S. citizenship ownership and control:

> **In order to acquire additional boat quota shares or IFQs, the person must:**
> **a. Be a U.S. citizen; and**
> **b. Be a bonafide crewmember. Page 2-37, Supplemental EIS, 1992**

1. "Person" means any individual who is a citizen of the United States or any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any state) which meets the requirements set forth in 46 CFR Part 67.03, as applicable.

2. An "individual" means a U.S. citizen.

These requirements make it virtually impossible for foreign control of halibut/blackcod IFQ fishing privileges. In order to acquire or use IFQs, you must be a U.S. citizen. However, some of the U.S. seafood corporations, which happen to be dominated by foreign investment did receive some initial allocation in the halibut/sablefish program. The Secretary was able to minimize such companies' involvement and their control by developing a second generation ownership provision. This was accomplished by requiring the new individuals buying into the QS, to be a bonafide crewperson and an individual (not a corporation or partnership).

The program is ultimately designed to evolve over time with the requirement that an IFQ owner will have to be on board a vessel in order to harvest the resource. This makes it impossible for corporations to buy up the resource and sets purchasing parameters that guide the ultimate control of the product to U.S. citizens who will fish on those vessels.
It needs to be pointed out that neither the Alaska groundfish and crab license limited entry programs, nor the groundfish license limited entry programs off

Washington, Oregon and California, have similar safeguards to protect against foreign control of fishing privileges. In fact, one company, American Seafoods, a U.S. corporation, allegedly controls 35% of the pollock in the Bering Sea and now will be granted limited entry license harvesting privileges by the Secretary of Commerce in the absence of more restrictive regulations or legislation. There are no restrictions on foreign control of these licenses through the structure of a U.S. corporation. Structured properly, every license limited entry program should incorporate restrictions that result in control of the resource by U.S. citizens.

Further prohibiting foreign control by changes to the fisheries and coastwise trade restrictions of the Shipping Act may have positive results. It needs to be recognized that restricting vessels based on some arbitrary degree of U.S. ownership may have very little to do with foreign controlled harvesting privileges. The harvesting privileges granted to American Seafoods, for instance, can be placed on any vessel of similar length to the vessels to which the licenses originally applied. In addition, control may be achieved by contract, debt, or equity, or a combination thereof. Whether the fishing privileges are issued as QS or license limited entry privileges is immaterial. They both can be foreign controlled, unless restrictions are provided. In any new legislative or regulatory scheme to restrict or prohibit foreign control, elaborate legal devices and vigorous enforcement will be required.

(C) The impact of limiting the duration of individual fishing quota programs;

Limiting the duration of individual fishing quota programs would create many uncertainties in, and have adverse effects on, the market. Some of the uncertainties and projected effects would likely be as follows:

(1) If a person owned or controlled a limited duration QS, there would likely be very little initiative on the part of that individual to support a long-term conservation strategy that resulted, at times, in lower harvesting levels. The economic incentive for a person who might hold a QS unit that terminated in five years, for example, would be to push for maximum harvest allowances, because there would be no hope of realizing any benefit beyond the length of the five-year fishing privilege. This would defeat the objective of establishing good stewardship.

(2) A limited duration IFQ would likely result in the entrepreneur charging a larger than normal use fee, in order to amortize the cost of the limited use privilege plus make a return on the investment. Any such aggressive use charge would likely come out of what the crews would otherwise share.

(3) If, for example there were limited time duration IFQs, good for ten years and transferable, the value would resemble, over time, a ten-year bond. However, due to the uncertainty of fish prices and the fact that the fishing privileges would approach a zero value, banking institutions would want a higher down-payment.

The value of entry may seem to be cheaper than for an IFQ program that is designed to be perpetual, but the reduced value of entry would only reflect the risks of making a return on the investment, and few banking institutions would want to make loans without additional security beyond the limited use IFQ. Loans today with the halibut/blackcod program often only require the security of the IFQ, and not additionally, the vessel, or a person's home, which would likely be required for a limited duration IFQ.

(4) A limited time-use IFQ, is similar to providing prospective home-owners with five-year arm loans and no 30-year fixed rate loans. This would depress the home market, and necessitate other forms of security than a mortgage.

Crew persons or new entrants who may want to buy into a limited duration IFQ program might find the cost of entry less than that of a perpetual program, but would likely have a more difficult time obtaining financing, because they may not

have sufficient additional assets.

(5) If the limited duration IFQ did not last longer than the mortgage of a person's vessel, this could result in even more uncertainty for the industry. What does a person do with a vessel when the fishing privileges are gone? How much maintenance would be put into a vessel at the end of a limited duration IFQ program? This would adversely affect safety.

In summary, limited-use IFQs would encourage the holder of the privilege to capture enough revenue to cover all the risks early in the IFQ's life. It would promote a philosophy of "get it all today" from both a financial and a resource perspective. The crews would pay the cost of the uncertainty with high use fees to cover principal payments and any potential market downturn. The uncertainty of a limited timed IFQ would likely have negative effects on maintaining a vessel and be less safe than a perpetual IFQ program.

(D) The impact of authorizing Federal permits to process a quantity of fish that corresponds to individual fishing quotas, and of the value created for recipients of any such permits, including a comparison of such value to the value of the corresponding individual fishing quotas

There are a number of concerns presented by federal permits to process a quantity of fish corresponding to individual fishing quotas. Some of the concerns are as follows:

(1) In Alaska, the majority of the shoreside and at-sea processing activity is controlled by foreign investment. Processing rights granted only to those processors who have received product in the past would put the foreign dominated processing industry in an excellent position to extract a greater share of the value of the fish. IFQs, which are designed for harvesters in the halibut/sablefish programs, have been able to capture a greater share of the value of the fish for U.S.-owned and-controlled fishing operations; processing quotas would provide a similar result to foreign-controlled processors. In Alaska, a greater share of the dollar value of the resource would be extracted by foreign investment, which seems to be a concern to leading members of Congress in S.1221, but in the context of at-sea components of non-IFQ fisheries.

Moreover, fishing operations are often characterized by small businesses. Processing, on the other hand, is largely big business. The socio-economic impact of processing quotas could be dramatic, and potentially disenfranchising to small, owner-operated harvesting businesses.

(2) Processing quota rights present questions of restraining trade, where small numbers of large businesses dominate a market sector. Many processors in Alaska may purchase and freeze a product, but they resell the product to a secondary processor for steaking and final sale. The prospect that processing privileges could preclude or limit the competition is a great concern.

(3) Fishermen in the halibut IFQ program have the right to sell directly off their vessels to customers. Would this privilege be foregone?

(4) The most important benefit of a QS program is the ability to deliver and fish when resource, weather, and market conditions are most favorable. If a harvester had to match harvesting quota with an equal processing share, in order to sell, this flexibility, which is vitally important to conservation, safety, and economic viability, could be lost.

(5) In 1996 there were 2,768 vessels in the halibut/sablefish program that operated and freely traded with all processors who wanted to buy. If those fishermen were forced to match their quota with processor quota, it would have created a forced market situation. The ability to sell to the aggressive markets would be restricted. Additionally, a logistic issue would arise. For example, when the last 100,000 pounds needed to be landed and five processors in five different geographic areas had only 20,000 pounds each of matching processing quota available. The harvesters who have highly perishable product would be in a difficult situation.

In summary, processing quotas would give the foreign dominated processors in Alaska an unwarranted marketing advantage, raise antitrust issues, and likely have adverse effects on conservation and safety.

(E) Mechanisms to provide for diversity and to minimize adverse social and economic impacts on fishing communities, other fisheries affected by the displacement of vessels, and any impacts associated with the shifting of capital value from fishing vessels to individual fishing quotas, as well as the use of capital construction funds to purchase individual fishing quotas

An IFQ program provides for many options to minimize adverse social and economic impacts on fishing communities. The mechanisms by which quota shares are distributed are critical to minimizing those impacts. Consideration of present participation in, and dependency on, the fisheries are very useful. Notably, those factors must be taken into account under Section 303 of the Magnuson-Stevens Act. In addition, National Standard 8 of that Act requires that the interest of fishing communities be given significant weight. Participation and dependency requirements were reflected in the fishing history criteria for initial QS.

Other options used in the halibut/sablefish program to minimize impacts on fishing communities include vessel caps to limit the loss of crew jobs (the Secretary recognized that an IFQ program will naturally consolidate capital). The halibut/sablefish program also provided for frozen and unfrozen product IFQs, which helped preserve shore-based processing jobs. Vessel length categories helped preserve the unique character of the fleet and helped insulate the small vessel owner from the larger vessel owners purchasing power in the QS market.

The displacement of vessels from a fishery that operates under IFQs has to be expected. The displaced vessels provide a very excellent buying opportunity for people in other fisheries. The displaced vessels represent surplus capital and a buying opportunity at lower market prices. Surplus vessels in the halibut/sablefish program, unless they have fishing rights to be sold with them, have significantly lower prices than a vessel with fishing privileges.

Fishing quotas may become more valuable than the vessel. This is a fact in the halibut/sablefish program, and does not seem to be a problem. The market determines the values of vessels and fishing privileges.

It should be noted that Bristol Bay Salmon gillnet fishing privileges used to sell for $250,000 and now are valued at $100,000. The price of a new gillnet vessel is still about $250,000 to $300,000. It would be unproductive and impossible for the government to control such fluctuations.

With regard to the Capital Construction Fund program, a fishery is fully capitalized or overcapitalized, it makes very little sense to encourage more capital to be spent

other than for safety improvements. It is better to divert funds away from building more vessels and into fishing privileges, such as QS. If the Capital Construction Fund were reconfigured to allow for the purchase of fishing privileges, such as QS, it would help compliment management goals. It would be an excellent way for deckhands to acquire fishing privileges with a savings program directed into a CCF account.

(F) Mechanisms to provide for effective monitoring and enforcement, including the inspection of fish harvested and incentives to reduce bycatch, and in particular discards

Mechanisms to provide for effective monitoring and enforcement may include the following: (1) upon landing, there may be an independent person referred to as a weighmaster, to confirm the poundage landed. Such a program currently exists in Canada with their halibut/sablefish QS programs. A similar option is under review in Alaska for the halibut/sablefish program. (2) A landing fee may be collected to help offset part of the enforcement and monitoring cost. (3) Pre-landing notification requirements may be established. (4) Stringent fines and/or revocation of fishing privileges may be imposed for violations.

The need for the inspection of fish, other than to validate poundage, is questionable. There are government regulations and inspections for food quality and currently the fish buyers and fishermen seem capable of determining whether a fish should be graded 1st, 2nd, or 3rd in its quality.

Incentives to reduce bycatch are complemented by an IFQ program in that the race to catch fish is gone. The harvesters can take more time to process a fish of lesser value, because the harvester does not have to worry about losing harvest time. Retention requirements are less costly to the fishermen.

Economic discards should be significantly reduced with any IFQ program. Who would intentionally set gear in a place where fish of little value might be caught? An IFQ program allows the power of the economic system to help reduce economic discards.

(G) Threshold criteria for determining whether a fishery may be considered for individual fishing quota management, including criteria related to the geographical range, population dynamics and condition of a fish stock, the socioeconomic characteristics of a fishery (including participants' involvement in multiple fisheries in the region), and participation by commercial, charter, and recreational fishing sectors in the fishery

The regional Council is best able to address the issues of geography, population dynamics, economy, characteristics of the fishery, and who should participate. Congress will find it difficult to have one national policy to cover diverse fisheries under eight regional Councils.

However, there is one factor that is universally application. A "threshold" issue that might be considered is overcapitalization in the fleet. If the degree of capitalization is creating a danger to fishermen; creating a situation where fishing gear is being developed in a manner causing unnecessary waste; creating gear conflicts and/or degradation of the wholesomeness of the product, then IFQs should be actively considered.

The halibut/sablefish program examined 10 items that were of concern to the Council. They were:

Allocation conflicts;
Gear conflicts;
Fishing mortality and other costs due to lost gear;
Bycatch loss of halibut and sablefish in other fisheries;
Discard mortality for halibut and other retainable species in the halibut and sablefish fisheries;
Excess harvesting capacity;
Product quality, as reflected in halibut and sablefish prices;
Safety of fishermen;
Economic stability in the fixed gear halibut and sablefish fisheries and affected communities; and
Rural coastal community development of a small boat fishery.

It should be noted that all of the listed criteria are available for any Council to consider, without new legislation.

(H) Mechanisms to ensure that vessel owners, vessel masters, crew members, and United States fish processors are treated fairly and equitably in initial allocations, to require persons holding individual fishing quotas to be on board the vessel using such quotas, and to facilitate new entry under individual fishing quota programs

The mechanisms to ensure that people are treated fairly with regards to the initial allocation of IFQs should be up to each representative Council, subject to review by the Secretary of Commerce, as is now the case. The mechanisms currently available include hearings in areas that are affected, and follow the existing limited entry guidelines and national standards.

The Ninth Circuit Court of Appeals, in addressing the issue of whether crewpersons were not considered fairly vis a vis vessel owners in the halibut/sablefish program, recognized that the Secretary needed to deal with investors in order to address overcapitalization. The allocation of the QS to those who had taken the financial risks of investing was considered appropriate. The Secretary set up certain provisions in the halibut/sablefish program to give bonafide crewpersons the inside opportunity in purchasing IFQs after the initial allocation; however, the crews did not receive initial allocations.

The crews did not receive the salmon limited entry privileges in Alaska, nor did the crews receive the license limited entry permits for groundfish and crab, nor are the crews anticipated to receive anything for nationally funded buy-out programs. A question of whether this is fair to crewpersons is a reasonable debate. The crews should, however, benefit under a properly designed IFQ buyout program, or license program, with better wages and greater stability.

Not all IFQ programs should require the owner of the QS to be on board. This should be determined based on the historical characteristics of each fishing fleet. It was typically the case in the halibut/sablefish program that owners were on board. There are provisions to ensure that this occurs over time in that fishery. There are other fisheries, such as the industrialized Alaska pollock factory trawler fleet, where an owner on board requirement would not make sense.

It should be recognized that an owner-operated fleet will help promote a high level of seamanship, safety, stewardship, and control of the profits by a U.S. citizen.

Facilitating new entrants into an IFQ program can probably best be done by amending the Capital Construction Program to allow crew and new entrants to set aside capital in order to purchase fishing privileges.

Regulations that force existing people out of the industry can be disruptive. Allowing phaseouts over a period of time should be considered.

(I) Potential social and economic costs and benefits to the nation, individual fishing quota recipients, and any recipients of Federal permits described in subparagraph (D) under individual fishing quota programs, including from capital gains revenue, the allocation of such quotas or permits through Federal auctions, annual fees and transfer fees at various levels, or other measures

There are numerous potential economic and social benefits to IFQ programs. Some of them are the following:

(1) A safer fishery. The halibut/sablefish program, according to the U.S. Coast Guard, has resulted in less than half the previous number of search and rescue requests from the fleet.

(2) More easily achieved conservation. It is by far the most effective form of fishing management to reduce capital. The halibut fleet numbered 3,920 in 1994. The fishery recorded 2,768 vessels in 1996, representing a reduction of 1,152 vessels. It is estimated that a similar reduction financed by the taxpayer would have cost more than $200,000,000. Fewer vessels means less pressure on the resource.

(3) Reduction in discards and bycatch. An IFQ program allows any particular vessel to operate at a slower pace than does the classic "race for fish" open entry system. This encourages avoidance of non-target species and retention of what is incidentally caught. The harvest and discard of undesirable fish or less economically valued fish in an open-entry program become secondary concerns to the targeting of the "money" fish upon which the vessel depends.

(4) Gear conflicts are greatly reduced. The slower pace of IFQ fisheries facilitate conflict avoidance.

(5) IFQs have a unique ability to be configured to achieve social goals. For example, small vessel owners can be protected and crews can be given certain advantages based on how QS are allowed to be owned, used, and transferred.

(6) In the case where the fishing industry is dominated by foreign investment at the processing level, an IFQ program can be designed to give more market power to the fishermen, in order to retain more value in the hands of U.S. citizens.

One of the economic costs is that an IFQ program requires additional enforcement, particularly in at-sea processing situations. If an IFQ is improperly designed,

foreign control and ownership of our marine resources could be increased, not diminished. Excessive consolidation is also a potential risk.

(8) By granting IFQ harvest privileges, the government instantly creates a capital good that can be used as security. The QS values will generate revenue to the government. (A license limited entry program does the same.)

The concept of having the government auction off fishing privileges is not a new one. An auction program could provide income to the government, but the current participants probably would not be the successful bidders due to their debt and any surpluses the fleet might generate being spread across an overcapitalized fleet. Moreover, an auction program that failed to limit the bidding to those involved in the industry might find an unrelated conglomerate buying the fishing privileges and the traditional fleet bidding for lease fees from the new owner.

(J) The value created for recipients of individual fishing quotas, including a comparison of such value to the value of the fish harvested under such quotas and to the value of permits created by other types of limited access systems, and the effects of creating such value on fishery management and conservation

The value of fishing quotas relative to the halibut/sablefish program in Alaska are published monthly in the local trade journals. The Fishermen's News quotes prices as follows in their October 1997 issue (attached):

Halibut	2C	$13.00 to $14.00
	3A	$11.50 to $12.50
	3B	$10.50 to $12.00
Sablefish	West Yakutat (S.E.)	$13.00
	Central Gulf	$10.50 to $12.00

These values represent the cost of selling the harvest privileges. The 1997 exvessel, shoreside prices for halibut have averaged approximately $2.20 in the central Gulf of Alaska ports with slightly higher prices being offered in the eastern Gulf of Alaska. The permit transfer price seems to be valued at 4.7 and 6.4 times the market value. The variation in halibut prices between the western Gulf of Alaska and the eastern Gulf of Alaska significantly reflect the availability to fresh fish market opportunities with the western area QS reflecting a lower value.

The price variations for halibut are also true for sablefish between the eastern Gulf and western Gulf areas. The 1997 average exvessel price for dressed sablefish was approximately $3.85. The price began in March at about $3.65 and rose to a high of $4.10/dressed pound. These prices are equivalent to a $2.43 round pound exvessel price. Based on the October values for transferring QS above sablefish values seem to be 4.3 to 5.4 times market prices.

Limited entry permits are also routinely listed in trade journals and attached are recent October values. Two of the higher profiled limited entry permits are the Bristol Bay drift net permit and the Chatham Black Cod permit. Recent sales of some Bristol Bay Driftnet permits have sold for $90,000.

The 1997 fishery in Bristol Bay produced 12,308,000 sockeye salmon which averaged 6 lb/per fish. There were approximately 2300 active operating permits in 1997. The estimated average poundage per permit would have been approximately 32,000 pounds assuming a 6 lb/average for 1997. The price per pound is estimated

to be almost .90/lb. The average gross earnings per permit are estimated to have been $27,000, hence, the value of the 1997 permit is approximately 3.33 times gross earnings.

The Chatham fishery in 1997 allowed each permit holder to harvest 24,700 dressed pounds. The average value for this fishery in 1997, due to the above average large size of the fish in this fishery, was approximately $4.10/dressed pound. This would have resulted in a gross income of $101,270 per permit. Recent sales offers have been made in the $425,000 to $450,000 range, which would reflect a market value of 4.2 to 4.45 times earnings. This particular fishery has been designed by the State of Alaska to mandatorily have a reduction of permits, which has caused some speculation by buyers.

It would appear that current quota share for halibut is selling at 6.4 to 4.7 times earnings, and sablefish is selling at 4.3 to 5.4 times earnings. Two Alaskan permit fisheries seem to be selling at 3.3 to 4.4 times earnings.

One of the obvious advantages that a quota share fishery privilege has over a permit fishery is that there is no automatic requirement of an investment in a fishing vessel, which can result in lower overall earning prospects if a permit fishery is over-capitalized.