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THE 'PUBLIC FACE' OF THE NEW ENGLAND
REGIONAL FISHERY COUNCIL: YEAR 1

By

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TECHNICAL REPORT

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ABSTRACT

The first year of the New England Regional Fisheries Management Council has been marked by its experimental aura. Neither the Council nor the various sectors (representatives of the Federal and State agencies, members of the fishing industry, the public at large) were clear as to exactly what they were to do and how they were to do it--except in the broadest, most flexible (ambiguous?) terms. This created certain operational difficulties, and confusion for those whose livelihood was affected by the Council's operation. This latter group, particularly the fishermen, knew little of what went on, save in terms of the 'public face' of the Council--i.e., that portion of the Council's performance which occurred during the monthly meetings which were open to the public and which, supposedly, received public input at that time.

This study defines that public face, deliberately avoiding the presentation of any data which was not accessible to the average audience participant, in an attempt to present some of the behavior which all participants demonstrated, and which generated responses and reactions on the part of the other sectors. It uses standard anthropological techniques of data gathering and analysis to show the degree to which impression management on the part of all the actors operated in a systematic fashion to produce action, reaction, and counter-action. Particularly emphasized is the communication aspects.



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Introduction - On March 1, 1977, the United States Government affected extension of their jurisdiction over coastal waters 197 miles beyond the then-current territorial area. The purpose was to protect that ecozone and the resources therein.¹ This was accomplished through legislation entitled the Fisheries Conservation and Management Act of 1976 (FCMA), designed to create a Fishery Conservation Zone (FCZ) which would be managed through the creation of Regional Fisheries Management Councils (RFMC) and other administrative suprastructure. It must be emphasized that, although the area is designated an Exclusive Economic Zone in international legal terms, and although it is often referred to as the 'U.S. Territorial Zone,' the Act does not apply to economic resources other than the fisheries--at least at present. The area is not a part of our territorial waters as the term is defined by international jurisprudes. The distinction is important since it is related to the government's fundamental stance that the Act is designed not only to protect national economic interests but the food resources of the world commonweal. Thus, the position is

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explicit that the U.S. will, when feasible, manage the fisheries in this FCZ in terms of international equity based on historical precedent, international law and treaties, and human need. Its congressional proponents stressed this in the legislative debates and thus laid the groundwork for the Act to be seen not as a move to appropriate and pre-empt an historically common resource of mankind for the sake of national greed so much as to conserve for all and protect from a few, man's future access to those resources (see A legislative history of the FCMA of 1976: 3,39,40,318,330,362-72 393-401,440-45, 540-45, 550, 577, 620-22, 625, 852-4, 890, 898-99, 909, 925, 933, 963-4). This primacy of the need for immediate conservation measures--as opposed to the secondary consideration of immediate economic benefits--has, as we shall see, proved a stumbling block in the implementation of management plans.

This analysis focuses on the dynamics of the current formative period, the beginning of which was signalled by the formation of the Regional Fisheries Management Councils, as mandated by the Act. It will concern itself with delineating the transactions of the New England Council especially, as that Council conducts its affairs in an interface with the public in the open arena of the monthly meetings and periodic Hearings. The dynamics of these encounters, as they affect the production of management plans for the fisheries in the region will be set forth in the hope that others

will be able to understand better the complexities of the process. Primarily, I will attempt to show that the differing positions which are held by those engaged in formulating management details and principles tend to turn hoped-for results into unforeseen consequences.

Assumed here is that two technological components underlie the diversity of interests. On the one hand, we have artifactual industrial hardware, the purpose of which is to expand and increase the capacity of the involved sector(s) to control exploitation of ecozone resources. The most obvious hardware is, of course, that of the industry itself--vessels, gear, equipment, processing and packaging machinery, etc. Not so obvious, but equally important is the hardware of the administrative and scientific sectors--computers, data banks, information retrieval equipment, and the like.

On the other hand, the mentifactual conceptual 'software' is designed so as to assist in expanding the capacity of the involved sector(s) to conserve ecozone resources. 'Software' here will be defined as the concepts and/or conceptual and human organizational systems which are specifically-designed tools used to implement an explosive technology. In point here are such scientific tools as the concepts of Maximum Sustainable Yield (MSY) and Optimum Yield (OY), various statistical formulas (e.g., chi-square analysis), adequate sampling procedures, computer programs, systems analysis

and similar tools of technicians as well as professional personnel, but also organizational and associational entities such as government bureaucracies, the RFM Councils, and special interest groups like the Massachusetts In-shore Draggerman's Association.

The position that technology includes not only material tools (artifacts) but also conceptual and organizational constructs (mentifacts) departs from the dominant traditions of the social sciences which favor a sharp distinction between the two (see, e.g., Andersen and Wadel 1972:156). Very recent literature, however, especially that emanating from those who have a special concern for technology, its workings and broad socio-cultural impact, is beginning to favor such a stance. Wenk, for example, points out:

When we combine the purely technical or hardware ingredient of technology with the softer ware and when we examine the full arena of social and environmental impacts, we uncover an exceedingly subtle but potent attribute of technologies: they have the capacity to produce two types of consequences.

The first-order results are intended, usually narrow and explicit. But the second-order consequences are intangible, indeterminant, and often unsuspected (1977: 10, emphases added).

There are two justifications for this treatment: First, it has certain analytical strengths and is productive, i.e., it generates new insights. Second, there is a substantial body of data supporting its legitimacy on ethnoscientific grounds; e.g., the only place in the 105-page report issued by the Committee on Merchant Marine and Fisheries in the Legislative History of the MFCA of 1976 (pp. 1051-1156) in which the word 'tool' is used is in the section on Definitions which states:

The underlying management concept of this Act is embodied in the term 'optimum sustainable yield.' This concept is the cornerstone of the Congressional Findings and Statements of Policy and Purpose set forth in Section 2 of the Act....

Optimum sustainable yield is a refinement of, and takes as a point of departure, the traditional fisheries biology concept of maximum sustainable yield (MSY). MSY is simply a tool by which the level of harvest of a given stock can be determined....

The measurement of MSY as a scientific tool has been refined dramatically in the past decade....On the other hand, a responsible body of opinion supported the proposition that the Committee should not give statutory recognition to MSY since it was felt that the concept had been discredited

as an effective management tool....The Committee believes that the failure of ICNAF has not discredited MSY as a management tool but rather points up clearly the fact that MSY is only a tool... (A legislative History...1976:1098-99, emphases added).

And two more examples drawn from my field data:

'Organizations like MIDA and CCCFC [the Massachusetts In-shore Draggerman's Association and the Cape Cod Commercial Fishermen's Coalition] are the tools that the fishermen will have to use if they're going to survive' (September, 1977): 'The Council is simply a tool of NMFS [the National Marine Fisheries Service] and Kreps [Secretary of Commerce Juanita Kreps]' (December, 1977). Thus, to use standard anthropological terminology, it is clear that, in the cognitive view of the folk (whether they be congressional representatives, scientific advisors, or fishermen and processors), a componential analysis of technological ethnoscience stresses two main elements, machinery and equipment but also concepts and human organizational systems (see Smith, 1977 a, b, c, for other statements utilizing this perspective of technology in a maritime setting).

Data for the paper has been gathered from three sources: field work in several New England ports since 1971; attendance at the general sessions and public Hearings held by the New England Regional Fishery Management Council (June, 1977 to present); and use

of archival and governmental documents as well as industry periodicals, especially the National Fisherman and Fishing News International, and assorted statistical reports by NOAA and NMFS.

Historical background. A brief introduction to the historical events of the hardware technology explosion which has so devastated the world's fishing stocks is in order here; it provides the raison d'etre of the Act and the Councils. It is difficult to grasp the full extent of this aspect of the technological revolution but a few examples may serve to illustrate it:

- the world's first major commercial net factory was built in 1883 (FNI 16(9):12);
- otter trawls first appeared in New England in 1905 and were not widely adopted until after World War I;
- industrial fishing with integrated fleets centered around factory ships became common only in the late 1950s;
- it has been little more than a decade since the majority of new commercial fishing vessels have had gear and equipment costs in excess of hull costs.

The rise and fall of fisheries has been accelerated in accord with the expanding exploitive capacity of the industry; fishing communities, generally rural, and still considered among the

most conservative and slow to change, are increasingly faced with a boom-town rise and decline, similar to that which accompanied with growth of the anchovy industry in Peruvian coastal communities. Typical of the process is a description of the Atlantic City fishing industry:

A commercial fishery was first established in Atlantic City in 1911. In the early years it was a seasonal operation, harvesting local fish, packing them, and then distributing them to nearby eastern markets in spring, summer, and fall. Vessels of the day were powered by sail and oar. This type of fishery continued until the advent of motorized vessels, which increased the range over which the fishermen could operate.

In the 1920s the motorized vessel in combination with the otter trawl increased the efficiency of the fleet to a degree previously undreamed of. Fishermen were able to follow fish on their offshore migration and could fish the wintering ground at the edge of the continental shelf.... Between 1955 and 1965....packing the catches and catering to the needs of the fleet were five fish docks and three marine supply dealers. Box factories were born, ice houses expanded existing facilities, and trucking companies developed refrigerated trailer units. Docking facilities expanded their refrigerated holding facilities, fillet houses

were established to better serve the expanded markets in the industry.

....The cod, haddock and mackerel completely disappeared as a result of overfishing....As a result of the decline in the industry, personnel sought other fields of employment.

Consequently, the undermanned vessels deteriorated physically, and the owner-operators sold them in other areas, and in some cases lost them at [U.S.] Marshall's sales.

In the subsequent years no new capital has been invested in fishing vessels in Atlantic City. As a result there are now only 8 offshore fishing vessels and 10 skiffs operating out of this port. Personnel are difficult to obtain. Because of the loss of income, the docks have deteriorated and are in need of major repairs and improvement.

Statement by Mr. Harry McGarrigel, Owner of Harry McGarrigel & Sons Fishery, Atlantic City in the Hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment, of the Committee on Merchant Marine and Fisheries, H.R. Serial No. 93-37, (cited hereafter as Serial No. 93-37) 1974:247-48.

It is significant that man's growing technological ability to exploit the stocks was a subject of concern as early as 1893 when

a Select Committee of the House of Commons noted that catches and sizes of fish were diminishing in the North Sea fisheries because, '...appliances for catching them have of recent years been greatly increased in size and efficiency and the fishing grounds have been largely extended in area...' (quoted by Engholm 1961:40). It was this same concern which led the Swedish Government to invite various countries to a conference in Stockholm in 1899 and this in turn led to the formation of the International Council for the Exploration of the Sea in 1902. This was the first of many such organizations concerned with the problem of stock maintenance in the face of the industry's increased technological ability to exploit the resources of the sea. The conclusions were always the same: Expanded research and resultant improved technology--by private as well as governmental sponsors--were leading to a potentially dangerous situation in depleted stocks.

In describing the evolutionary pattern, a former Fisheries Secretary for England and Wales commented as follows:

The first sign would be the same as that which was already beginning to attract notice in the report of 1893... namely, that the fishing effort required for a given catch would increase....Fishermen would find that by carrying on with the old methods, their catch per boat was taking more time to get and even so, might be declining. The more

progressive would search for new and better methods to increase their efficiency, and so their catching power. For a time these more progressive men would do well. They would be securing for themselves a larger share of the available cake. The others would find their catches steadily getting worse, and they would be forced either to take all kinds and sizes of fish--the small and uneconomic as well as the larger and remunerative--or themselves have to adopt more modern fishing methods. But as more and more fishermen turned over to more and more efficient fishing methods, total fishing power would increase in relation to the same or probably depleted fish stocks, and the vicious circle would start to turn once more (Engholm 1961:42).

Thus, we have had repeated warnings concerning the problems which arise when increased technological exploitive skills make man capable of increasing productivity. But, as Aldous Huxley has stated in a warning sounded at the Conference on the technological order in 1962: 'Evidently we have to have a great many tremendous kicks in the pants before we can learn anything' (cited by Florman, 1976:40).

Despite such danger flags, the post-World War I era saw a tremendous expansion of the industry to exploit the stocks that had managed to rebuild during the low catch period of the war years.

But, by the beginning of World War II, the stocks had again declined to significantly marginal CPUE levels--though, again, a crisis was averted by a different crisis, World War II, which like its predecessor, curtailed fishing and allowed the stocks to recover.

The years following the end of the war witnessed an intensified repetition of the earlier drama, and on a wider geographic scale. History did repeat itself, and the same exponential growth in fishing effort, due to the same formulae of technological expansion, the same search for new grounds and marketable uses of underutilized species, within the same framework of fleet and vessel size increase, took place once more. Governments played a far more significant role in encouraging this expansion than they had in the earlier phase. All nations, whether combatants or not, were faced with the need to deal with shattered, stifled, or war-based economies. Not a few benefited from the ready availability of capital through foreign aid programs promulgated by both national and international agencies. The more prosperous Euroamerican countries were anxious to rebuild their own internal industrial and employment structure by providing equipment and machinery to other nations. The governments of many countries began to look to the fisheries as a source of national income as well as needed protein.

Further, the end of colonialism and the emergence of Third World countries, some newly independent and all anxious to break

free of foreign economic domination, led these nations to look to the development of the fisheries as a necessary step--before those resources were depleted by foreign fleets capable of taking in a single day what their own small, primitive, artisanal fisheries could not land in a year. Protein needs, a desire to build an export base so as to achieve a more favorably inclined balance of payments, and the implications which both of these held for the internal economy and political stability of the ruling government--all contributed to the growing thrust of certain countries into the world fisheries scene.

The first inkling of what was to come occurred less than a decade after the war. Britain developed the first factory ship at the Salvesen Yards in Leith, Scotland. The Fairtry I served as an innovative spark and prototype vessel; in a few years other countries, particularly those of Eastern Europe and Japan, not only copied but rapidly improved the design--as well as expanding the vessels' exploitive capacities by building on the 19th century concept of an integrated fleet, complete with logistical support vessels. Rationalized, centralized fleets, in vast armadas of sometimes over 100 units, began to roam the seas and these distant water fleets, complete with catch vessels, processing ships, supply, repair, refueling and hospital units (and even spotter aircraft when appropriate) became usual, familiar sights in the hitherto local fishing grounds of other nations. The tragedy of the commons

(Hardin 1968:1243-48) was unfolding.

By the early 1970s, world catch, till then taking significant annual leaps, began to decline, reflecting the inroads made on the resources. In an attempt to control effort, Mexico had extended her jurisdiction as early as 1945, and several other Latin American countries had followed her lead. Other countries began to move in similar directions and this led to the Law of the Sea negotiations--which some say were given their initial impetus by the have-nations desiring to maintain de facto control of ocean resources, in whatever capacity (transport, strategic, mining, fishing). Despite the negotiations not a year passed that some nation did not declare and/or increasingly enforce extension of their territorial waters or resource and economic control of contiguous zones, particularly the continental shelf areas.

Perhaps over-confident that some 25% of the world's known stocks lie in North American waters, the United States and Canada resisted such unilateral declarations, publically pinning their hopes that the LOS conferences could culminate in an internationally sanctioned conservation and regulatory scheme. However, by 1972 approximately 3000 foreign vessels representing 23 flags were cited off the New England coast alone (mostly in the Georges Bank area near Cape Cod) in a one-year period. This wholesale decimation of the stocks, particularly on the Grand Banks and Georges Bank, finally led, first, Canada and then the U.S., to move independently.

It had taken less than a decade for the new technology to

massively deplete the world's seafood. The technique of pulse fishing especially wreaked havoc on the stocks, as well as having a domino effect on the entire biomass. Three additional factors probably played an important role in forcing the U.S. government to move unilaterally in 1974-5, after years of ignoring U.S industry pleas--and despite continued strong resistance to such a move by the State Department, the military, and certain sectors of the fishing industry itself.

First, criticism of ICNAF management attempts grew intense; second, LOS negotiations gave rise to increasing concern by private corporate interests regarding the future of offshore mineral deposits; third (and related to the second factor), the oil companies began sub rosa but massive lobbying effort for such a declaration in order to facilitate their own plans for oil drilling on the continental shelf areas.

Public hearings, conducted by a Congressional subcommittee, were held in various key locales around the country throughout 1974 (see Serial No. 93-37 for a transcript of ten such meetings). The final congressional debates began in 1975 and culminated in the FCMA of 1976.

The Act was based on recognition of multiple national and international interests in a multiple-use zone, and the management scenario was designed accordingly. Regional fishery management councils especially reflect that multiplicity of interests and incorporate the concept of the interplay of actors representing

special interests against a backdrop of economic, political, social, and cultural values, within a technological infrastructure setting.

It may be noted here that the deceptive unity demonstrated by those various sectors during the pre-Act Hearings was taken as indication that these groups--NMFS, fishermen of various types, conservationists, shore-side industry representatives, law enforcement and scientific personnel--linked by a common concern for conservation of the stocks and protection of the U.S. fisheries, could work together effectively. Given that, and an underlying theme of the democratic ethos, it was deemed necessary to incorporate all sectors in the decision-making processes which would operate management plans. What was ignored was the fact that it is a common phenomenon that diverse interests band together when faced with a common enemy or the desire to achieve a common goal, but return to sectorial conflict when the one aim has been accomplished.

The simplistic view, especially of the industry, that all would be well if only extended jurisdiction would remove foreign fishing from traditional U.S. grounds, bears a striking resemblance to reports on Cargo cults--nativistic, millenarian movements based on the belief that there will arrive great ships (in this case, our own) loaded with cargo (fish) and bringing happy and prosperous times, after the foreigners are expelled.

Green (1976:67) defines them, in part, like this:

Cargo cults, like other revitalization movements, develop in situations where there is extreme material ...inequality between societies in contact. Cargo cults attempt to explain and erase the differences in material wealth between natives and Europeans.

Just so, it was widely believed that inequalities in wealth, resulting from the differences between the antiquated, wooden vessels of the Americans in relation to the high technology ships and gear of the foreigners, would be erased if only 'the natives' could regain control and sovereignty over their own territory once again. Once rid of the foreigners, our own fleet would again control the fishing and one would see a growth in catch, prosperity, and general well-being.

But the Catch-22 (no pun is intended) which would face the actors lie in the situation that the industry saw expansion of the fishing effort as the solution to their problems, while administrators and scientists were concentrating on the need to re-trench and conserve existing resources; one group was thus concerned with exploitation and growth in the fisheries, and the other was aiming for preservation of the stocks. One side saw expulsion of the foreigners as the way to gain greater access to the resource; the other side saw that same end as a necessary precondition for gaining regulatory control over the fishing effort.

When the Hallelujah Day arrived, one group anticipated halcyon days of expansion, and the other saw an indefinite period of 'bite-the-bullet' contraction.

Because anticipated results were in opposition, neither the industry people, on the one hand, nor the administrative and scientific personnel on the other, could fully appreciate the consequences of achieving their goal of gaining jurisdiction over the major portion of the continental shelf and its resources. The Act itself, designed with deliberate open-endedness so as to achieve flexibility is, rather, a source of dissonance and frustration as a consequence of its ambiguity. This is particularly true of Section III of the Act which deals with the Fishery Conservation and Management Plan, as it is designed and implemented by the Councils, the Department of Commerce officials, and scientists as well as technicians et al, in cooperation with industry people specifically and the public generally. (Appendix I is a resume of this Act, and shows in square brackets and by italics those parts which have elicited informant comment, criticism, and interpretation--as well as a sampling of some of those remarks.)

This introduction has attempted to lay a framework for the presentation of the structure and process of the Council for the New England region, as that Council is evolving due to internal and external vectors essentially derived from technologically-

based cognitive models. The presentation of data and analysis which follows is, by necessity, crude; in addition to the limitations of space, there are the far more significant boundaries imposed by my own limited access to the workings of the Council and other agencies involved--and, most importantly, because the entire program is less than a year old at this time* and is a fast-changing scene with participants still feeling their way into the situation. Finally, it has been outlined with a broad brush because, although limited to observation of one Regional Council, and therefore containing biases peculiar to that set of data, there is an attempt to blur specifics in order to present material with relevance beyond the confines of New England.

General organizational structure of the Councils. The FCMA explicitly gives latitude to each regional Council to work out actual organizational details (though certain procedures and structures are fixed), especially in the degree of qualitative emphasis which each Council chooses to place on the input of the various structural components. Guidelines for the Councils' operations are furnished by the Secretary of Commerce, via an Operations Manual provided by NMFS. In addition, the need for the Councils to conform to National Standards and the provisions of the Federal Advisory Committee Act (Public Law 92-463), narrows the latitude which specific Councils have, particularly in what shall be defined here as the Formal (conceptual principles) and Technical (specific operational

* February, 1978.

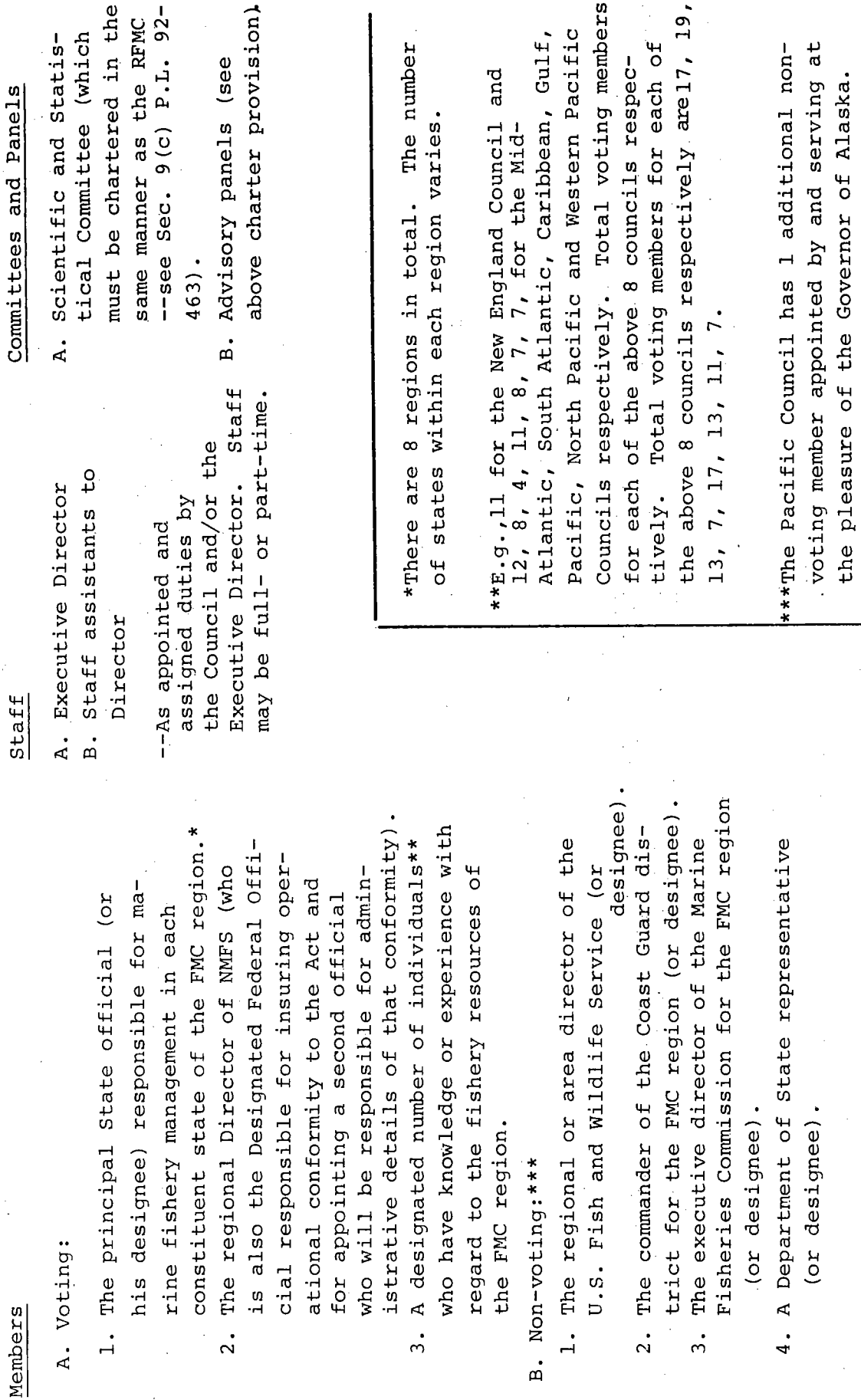
procedures) aspects (see Smith, 1969, for an expanded statement and analysis of the Formal, Technical and Informal aspects of Governing systems).

In general the structure is as shown in Figure 1; the production of a management plan is outlined in Figure 2; further details of the Technical and Formal aspects, as deemed relevant to this analysis, may be seen in Appendix I. Suffice it to say here that the Formal and Technical objectives of the Council are summed up in the following excerpt from the 'Joint explanatory statement of the Committee of Conference' (pp.35-58) appended to Public Law 94-265:

Each Regional Fishery Management Council is authorized and directed, inter alia, to develop fishery management plans and amendments to such plans; to submit periodic and other reports to the Secretary of Commerce; to continually review and revise assessments as to optimum yield and allowable foreign fishing; and to conduct other necessary and appropriate activities, with respect to the management and conservation of the fisheries over which it has authority.

Each Council shall conduct public hearings with respect to the development of fishery management plans and amendments, and with respect to the administration and implementation of the provisions of this legislation. Each Council is directed to establish scientific and statistical committees and necessary

Figure I: Technical aspects of the Council

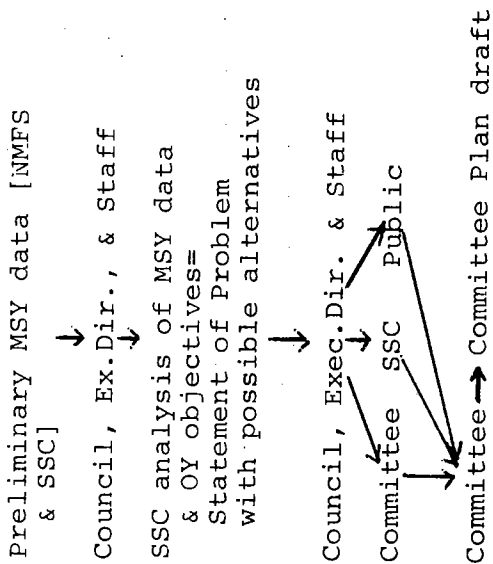
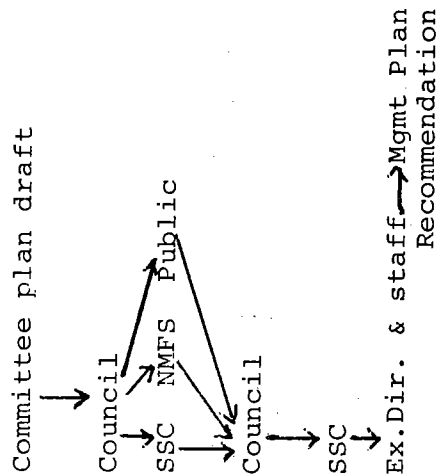
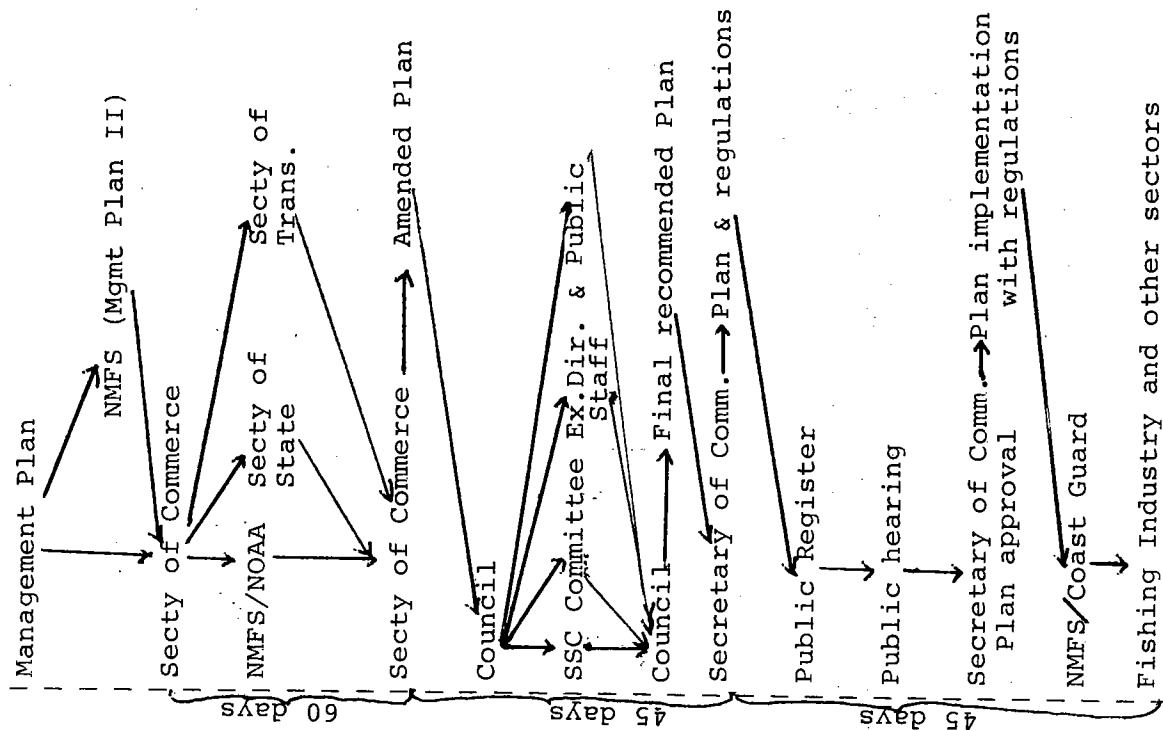


*There are 8 regions in total. The number of states within each region varies.

**E.g., 11 for the New England Council and 12, 8, 4, 11, 8, 7, 7, for the Mid-Atlantic, South Atlantic, Caribbean, Gulf, Pacific, North Pacific and Western Pacific Councils respectively. Total voting members for each of the above 8 councils respectively. Total voting members for each of the above 8 councils respectively are 17, 19, 13, 7, 17, 13, 11, 7.

***The Pacific Council has 1 additional non-voting member appointed by and serving at the pleasure of the Governor of Alaska.

Figure 2: Council Planning



NOTE:
 THIS IS A HIGHLY SIMPLIFIED FLOW CHART AND DOES SHOW THE ACTUAL DETAIL OF MOVEMENT WHICH IS MORE THAN TRIPLE THE 46 STEPS DIAGRAMMED HERE.

advisory panels to assist in the development or amendment of any fishery management plan. Each advisory panel shall be composed of persons who are either actually engaged in the harvest of, or are knowledgeable and interested in the conservation and management of, the applicable fishery or group of fisheries. The regional Councils and their committees and panels should receive maximum public input. The provisions of the Federal Advisory Committee Act apply, and therefore meetings must be open to the public, with few exceptions... (pp.49-50).

Thus, the Council is charged to:

1. Be aware and cognizant of the existence, significance, and present/future implications of raw data (e.g., NMFS landing and market figures) and other relevant reports/analyses--whether such materials deal with biological, economic, social, or political factors--on a local, state, regional, national, or international basis;
2. develop fisheries management plans and amendments (henceforth in this paper shortened simply as 'plans') through the use of such materials available--the Council also being authorized to initiate, design, accumulate, and analyze additional materials through the use of Council staff, other Federal agencies, committees, panels, contract consultants, and public input;

3. formulate such plans:(a) in terms of OY when possible or MSY when necessary (though, if the latter, the plan must satisfy environmental impact requirements in the Environmental Impact Statement (EIS) which accompanies the plan);and (b) so that the immediate needs and long-range objectives of biological, social, economic, and political concerns are consonant with each other;
4. satisfy as completely as possible the total range of affected persons, the biomass, and existing statutes, regulations, treaties, etc.;
5. take special care that the biological basis of the stocks is conserved and the socioeconomic viability of the fishing industry et al is enhanced;
6. 'conduct any other necessary and appropriate activities';
7. accomplish its work as expeditiously and economically as possible but with a maximum of public and scientific input.

Such work is to be done within a total systematic network of the following components:

1. Federal and State agencies/sectors--
the Department of Commerce (NOAA/NMFS especially), the Department of State, the Department which directs the Coast Guard law enforcement activities; the Department of Interior (e.g., Bureau of Indian Affairs); the Environmental Protection Agency; Congressional members and committees (e.g., the Senate Committee on Commerce, Science

