

Executive Director's Report

Evening Events

On Wednesday evening at 7:30 p.m., NMFS will hold an informational meeting on their recently completed groundfish SEIS. Its a very thick document that took a lot of careful preparation. I've worked my way through it and believe it will be an excellent reference compendium on the way we manage groundfish. Preceding the meeting will be an Ecosystem Committee meeting chaired by Dr. Fluharty. They will take place in the Council meeting room.

On Thursday night at about 6 p.m., we all will head to an industry reception at Salty's Restaurant on Alki, 1936 Harbor Avenue S.W. in West Seattle. Many of you attended a similar reception there last year.

New Staff Economist

We finally have a new staff economist on board. Charles Hamel started work on September 1. He will finish up his Masters in Resource Economics at the University of Alaska Fairbanks this fall, working under Mark Herrmann. Chuck has a long background in fisheries including a summer as a fish technician in Cordova for ADF&G, commercial fisherman for salmon and herring, and as a purchasing agent for a fish processor. His Masters work was on impact analysis of alternative policies in the Cook Inlet marine sport fishery. It's a pleasure for me to introduce him to you.

Plan Team Nomination

Benjamin Turnock has been nominated by NMFS for the position on the crab plan team vacated by Jerry Reeves. The SSC will review this nomination and provide their recommendation.

Council Budget

We are not yet sure what the final budget is going to be for the councils for 1999. Amounts range from \$12.8 to 13.2 million dollars for all eight councils. That compares with \$11.9 million in 1998. I will meet with the Finance Committee later this week and then we will report back to you for approval. The budget will need to be submitted in the next two weeks.

December Meeting

Our December meeting will be in Anchorage during the week of December 7th. As normal the SSC and AP will start on Monday, and the Council will begin on Tuesday, December 8. Final groundfish specifications will dominate the agenda, but we also will take final action on the chinook bycatch amendment, and there may be substantial consideration of the manager's amendments to S. 1221 if they still are destined to be implemented early in 1999.

October Meeting - 1999

The Doubletree does not have space for us the first week in October, 1999. We've checked the other major meetings - PSMFC, PFMC, IPHC, etc., and find that there should be no conflict if we move the meeting to the week of October 11, 1999, one week later than anticipated. We need to finalize arrangements with the hotel this week, so your approval would be appreciated.

AP/SSC Nominations

Just a reminder that we will be calling for nominations to the AP and SSC following this meeting. The Council will review nominations in December for one-year terms for each committee. We will send a notice out with our post-meeting newsletter.

Subsidy and Capital Investment Task Force

Item B-1(a) is letter from the Atlantic States Marine Fisheries Commission which has been contracted by NMFS to staff a task force investigating the role the federal government has played in subsidizing the fishing industry or otherwise influencing capital investment in fisheries. The task responds to provisions of the Sustainable Fisheries Act of 1996. They are seeking Council comments. Their final meeting is scheduled for October 23-26 in New Orleans.

FAO Consultations

Item B-1(b) contains draft three U.S. position papers on management of fishing capacity, conservation and management of sharks, and reduction of incidental catch of seabirds in longline fisheries. These have been developed by Prue Fox, Special Assistant to the Deputy Assistant Secretary for International Affairs in NOAA, in collaboration with industry and various environmental organizations. The FAO consultation will occur in Rome on October 26-30, 1998.

Atlantic States Marine Fisheries Commission

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September 11, 1998

John H. Dunnigan
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David V.D. Borden (R.I.)
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Mr. Clarence Pautzke
Executive Director
North Pacific Fishery Management Council
605 West 4th Avenue, Suite #306
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SEP 15 1998
N.P.F.M.C

Dear Mr. Pautzke:

Among the many provisions of the Sustainable Fisheries Act, Congress directed that the Secretary of Commerce establish a task force to investigate the role that the federal government may have played in subsidizing the fishing industry or otherwise influencing capital investment in fisheries. Specifically, the charge of the Task force is to study and report on the role of the federal government in:

- (1) subsidizing the expansion and contraction of fishing capacity in fishing fleets managed under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and
- (2) otherwise influencing the aggregate capital investment in fisheries. (MSFCMA § 312 note.)

The Atlantic States Marine Fisheries Commission was contracted by the National Marine Fisheries Service to provide staff support services to the Task Force. Currently, the Task Force is progressing very rapidly toward concluding its study. The Task Force has held five meetings around the country, and is planning to hold its sixth and final meeting on October 23-26, 1998, in New Orleans, Louisiana.

The Task Force has examined a variety of Federal programs from several different Federal agencies. These programs and agencies include, but are not limited to: the Capital Construction Fund (CCF), Fisheries Finance Program (FFP/FOG), Fisheries Buyback Programs, NMFS

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Mr. Clarence Pautzke
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fisheries marketing and promotion programs, U.S.D.A. Programs, Sea Grant, Saltonstall-Kennedy, Federal Disaster Relief, Economic Development Administration (EDA), Small Business Administration (SBA), Product Credit Administration (PCA), Tax Policy, and Wallop-Breaux.

The Task Force is very interested in receiving any comments and suggestions your Council may have about these programs, and how they have affected fisheries in your geographic area of concern. Please submit comments to the Task Force in care of: John Reisenweber, NOAA/NMFS, 1315 East-West Highway, Building #3, 14th Floor, Silver Spring, Maryland, 20910, Email address: Jreisenweber@noaa.gov.

Thank you for your kind assistance.

Sincerely,


John H. Dunnigan

JHD/las

Attached are the draft position papers for the FAO Consultation, October 26 - 30, 1998. The constituent briefing again will take place on October 6, from 3:30 p.m. - 5:30p.m. in room 2865, Department of Commerce, 14th and Constitution, N.W.

MANAGEMENT OF FISHING CAPACITY

Draft U.S. Position
October 26-30, 1998 FAO Consultations

Issue: To adopt a global plan of action for the management of fishing capacity.

Background:

1. Roughly since the 1992 UNCED Green Summit in Rio, fisheries experts and policymakers have increasingly turned their attention to the causes and cures of the global fisheries crisis. The most visible symptom of this crisis is a decline in the resource base, and the most striking indicator is the fact that FAO concludes that 35 % of all major commercial species are overfished (with declining landings) and 25 % more are fully utilized at high exploitation levels. Another 40% are still developing, and there are no fisheries in an undeveloped status. Many argue that to increase the world's fishing fleets for any but the developing category would compound the current challenges of fisheries management, and many believe that management efforts would be aided by decreases in effort and capacity for more than half of the most valuable commercial fish species.
2. Indeed, the continuing stress on resources seems to be borne out by trends in global harvests. After climbing for decades, world harvests peaked at about 80 million tons in 1989 and fluctuated in a narrow range until the mid-1990s. During the last several years, global production of capture fisheries has increased again to about 90 million tons, but the latest increases reflect overwhelmingly sharp jumps in output of a few pelagic - small, relatively low value - species in a few developing countries. Overall, the state of the world's wild fisheries resources is not encouraging, and trends in the biological status of many of the most valuable and traditional species are discouraging. This latter group includes many demersal (bottomfish) species in the cod family, several of the most sought after species of tuna (such as bluefin and bigeye) and many species of salmon in both the Atlantic and Pacific.
3. The most obvious causes of this crisis are the twin and related phenomena of overfishing and overcapacity. In fact, FAO has estimated that global overcapacity in the fisheries harvesting sector may be about 30 percent for the world's major species.
4. In recent years, following the 1992 environmental summit, the UN and FAO have sponsored a number of international initiatives designed to help Governments and organizations that manage regional fisheries better assess and manage capacity in the harvesting sector. The voluntary FAO Code of Conduct for Responsible Fisheries included specific articles urging Governments to take measures that will effectively address overcapacity; the UN Compliance Agreement has requirements that will oblige Governments to report to FAO on their high seas fleets; and the UN Fish Stocks Agreement established a legal basis that will enable Governments to better manage harvesting capacity of fleets engaged in fisheries for straddling and highly migratory species.

5. FAO and the Member Governments decided to address the overcapacity directly when, at the March 1997 COFI meeting, they decided to launch a multilateral initiative on capacity (and on seabirds and sharks).

6. The FAO initiative on managing capacity was organized as a two-step process: first, a technical experts meeting, and, then, a policy level consultation to develop a global plan of action, or some other appropriate instrument. The technical experts phase culminated in a meeting at La Jolla, CA, in April 1998, which focused on (a) defining and measuring capacity; (b) reviewing various categories of measures for dealing with the problem; and (c) holding a "brainstorming" session on the most appropriate elements of a global plan of action, or other appropriate instrument.

7. The policy-level phase began with a preparatory meeting at FAO in July 1998, where general agreement was reached on the major elements that should be included in the FAO initiative on capacity. These elements, stated briefly, are: (a) measures of capacity; (b) specific fisheries requiring immediate attention; (c) national plans; (d) subsidies; (e) coordination among regional fisheries management organizations (RFMOs); (f) Flags of Convenience and vessels of non-RFMO members; (g) assistance to fisheries dependent communities; (h) developing fleet registers; (i) outreach and education; (j) implementation mechanisms; and (k) technical cooperation. FAO then prepared in September a draft "Elements of an International Instrument for the Management of Fishing Capacity," a document that by and large incorporated the outcomes of the July 1998 preparatory meeting in Rome.

U.S. Position and Talking Points:

The U.S. position for the October 1998 FAO consultation is based on, first, the outcomes of the April 1998 La Jolla, CA, technical consultation; second, the U.S. position for the July 1998 preparatory meeting; third, a review of the September 1998 FAO "Instruments" draft, and, fourth, consultations with our constituencies. Since the capacity issue includes a large number of rather complicated elements, the position is given sequentially, according to the major issues.

8. The Need for a Global Plan of Action

The United States has consistently supported the need for an FAO-sponsored and coordinated global plan of action for the management of fishing capacity, and, therefore, opposes the recourse to a watered-down document, such as an "International Instrument", "guidelines", "principles", or the like. The United States continues to support a global plan of action.

9. Measures and Registries

The United States agrees that States and entities should cooperate with FAO's efforts to develop internationally agreed definitions and measures of capacity. Following the technical-level work done in 1998 on physical definitions and measures of capacity, FAO will sponsor a technical consultation in 1999 to develop economic and social measures of capacity, with the result that there will be an internationally agreed measure by the end of 1999.

In addition, States and entities should compile and maintain their own registries of information

sufficient to assess, monitor, and control harvesting capacity in their fishing fleets. FAO should develop and have functioning by the end of 1999 a global fishing vessel registry.

States and entities should, as quickly as possible, provide to the FAO all data pertaining to their respective high seas fishing vessels as envisioned in Article VI of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas.

10. National Plans

The United States has strongly supported the notion that excess capacity is a global problem, and that FAO-coordinated initiatives to deal with it should apply to all fisheries, wherever they occur. Since more than 80 percent of global harvests take place inside 200-mile EEZs, it follows that States and entities should develop and implement national capacity management plans for each fishery conducted in waters under their respective fisheries jurisdiction.

More precisely, national capacity management plans should include (a) short-term measures to restrain, cap and/or reduce harvesting capacity, especially in overfished fisheries, (b) long-term approaches that adjust economic incentives and provide a lasting solution, and (c) a procedure for effectively monitoring the plan's implementation. The United States recommends that national capacity management plans be adopted by the end of 2001.

The United States proposes that States and entities should regularly report to FAO on the contents and effectiveness of their national capacity management plans. In this regard, the United States recommends that one way to fulfill this element is the national committee for the management of fishing capacity (NCMFC). The FAO draft "Instruments" document proposes the establishment of NCMFC, and the United States will follow up on this FAO suggestion by urging that FAO regularly convene these NCMFC (and their regional counterparts, the Regional Committees for the Management of Fishing Capacity) to meet in Rome and hold technical consultations of issues of mutual interest. The NCMFC and RCMFC provide an excellent means of linking the strictly national and the broader regional and international aspects of this issue. NCMFCs should be established by the end of 1999; their first reports to FAO should be provided by 2000; and the first FAO report to COFI should be completed in 2001.

In addition, the United States notes that States and entities should take actions that apply to operations of their fishing fleets beyond waters under their jurisdiction, including on the high seas and in waters under foreign jurisdiction. These actions are spelled out in this position paper's provisions dealing with international agreements, regional organizations, Flags of Convenience and Non-Member vessels, and international transfer of fishing vessels.

11. Subsidies and Economic Incentives

The United States has a two-part position on the role of subsidies and economic incentives:

(a) The United States strongly endorses the appropriate elements in the FAO "Instruments" document that States and entities should (i) reduce and progressively eliminate subsidies that contribute, directly or indirectly, to the build-up of excess fishing capacity; and (ii) avoid using economic incentives to facilitate the transfer of capacity to the areas under national jurisdiction of

other States or to the high seas if such transfers are likely to undermine the sustainability of resources in these waters.

(b) We also urge that States and entities cooperate, through an FAO ad hoc group, to develop the needed information and analyses that will serve as a basis for reaching an agreement on an international regime that disciplines and restrains the negative impacts of subsidies and economic incentives. The assessment and analysis of subsidies and economic incentives must consider their effects on both trade and conservation. FAO should seek to accomplish the analysis of subsidies and economic incentives by a date certain, to be determined in the course of the consultations on the capacity issue. This FAO initiative should utilize information and analyses produced in other fora, such as OECD, the WTO's Committee on Trade and Environment, and APEC, and should be coordinated with WTO.

12. International Agreements

The United States will urge that States and entities ratify and implement the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the Highseas. These actions are essential first steps to assessing, monitoring, and controlling excess fishing capacity. States and entities should also fully implement the FAO Code of Conduct for Responsible Fisheries in all their fisheries.

In addition, the United States will propose that States and entities commit to a standstill on total harvesting capacity on the high seas. The standstill will not be an "agreement" in the formal sense, but a moral commitment undertaken in the context of a voluntary FAO initiative on capacity. Nevertheless, the United States believes that a standstill is a useful concept that should be pursued. The purpose of such a collective action should be to avoid additions to net, or aggregate, capacity in all high seas fisheries, unless the appropriate RFMO affirmatively determines that the stocks in questions can support the additional effort and capacity.

13. Fisheries Requiring Urgent Attention

The United States proposes that States and entities take actions to reduce excess fishing capacity in at least one domestic or regional fishery in which there is obvious and serious overcapacity. In the case of domestic fisheries, the identification of fisheries requiring urgent attention will be accomplished according to national legislation, policies and procedures. In the case of regional fisheries, States and entities should consult and agree on the criteria for determining which fisheries require urgent attention. The identification of initial domestic fisheries requiring urgent attention and international agreement on criteria for regional fisheries should be accomplished as soon as possible, preferably by December 31, 1999.

Since the identification of fisheries requiring immediate attention is contentious, the United States suggests that this issue can be taken up either as an integral part of the global plan of

action or separately as an independent FAO action. Therefore, States and entities should consult on whether an agreement on actions to reduce capacity in regional fisheries requiring urgent attention should be (a) included in the plan of action (or international instrument) or (b) treated separately in a resolution or other suitable document.

The United States believes it is important to begin as soon as possible to take responsible and substantive actions in fisheries requiring urgent attention, and, therefore, supports Japan's proposal regarding capacity reduction in the tuna long line sector, either within the context of the GPOA on capacity or as separate FAO resolution.

Special considerations for dealing with capacity problems in fisheries requiring urgent attention in developing countries may be warranted.

14. Regional Organizations

The United States supports a strong and meaningful role for RFMOs.

In conformity with the 1995 UN Fish Stocks Agreement, States and entities whose vessels are fishing in areas under the management jurisdiction of RFMOs should not have access to the fisheries in question unless they join those organizations or agree to apply their conservation provisions.

RFMOs or other regional or international arrangements should include, if necessary, controls on fishing capacity as part of their conservation and management regimes. In so doing, RFMOs and other arrangements should: (a) consider capacity controls on a fishery-by-fishery basis or by geographic area, with respect to all gears used in a given fishery; and (b) ensure that, when a member of the RFMO reduces fishing capacity in response to an excess capacity problem, no other member of the international community should permit an expansion of its fishing capacity for vessels fishing on the same stocks or populations.

In conformity with the 1995 UN Fish Stocks Agreement, States and entities whose vessels are fishing in high seas areas in which there is no RFMO or arrangement should cooperate immediately to create such an organization or arrangement.

Special considerations for dealing with developing countries may be warranted regarding this last point.

15. Flags of Convenience (FOC) and Non-Member Vessels

The United States supports effective actions to combat the growing use of FOC and non-Member vessels. Fishing vessels operating under FOC and flags of nations that do not belong to the appropriate RFMO (non-Member vessels) pose a serious international problem that should be addressed as quickly as possible.

There are several categories of measures to deal with this problem, depending on the legal authorities of the States or entities. As examples, actions may include (a) the recall of FOC vessels to their original flag by States/entities whose nationals own the FOC vessels, (b) landings and port access restrictions, (c) internationally agreed trade measures, and (d) other measures

consistent with international law. These measures should use as models recent initiatives undertaken in NAFO, ICCAT, and CCAMLR.

To assist in restraining the international transfer of surplus fishing capacity, which trade may aggravate the FOC and non-Member vessel problems, States and entities should include in their national capacity management plans provisions to ensure that vessels bought out to reduce capacity in domestic fisheries are not exported or otherwise transferred elsewhere for use in overfished fisheries.

An FAO consultation on the FOC and non-Member vessel issues may be warranted.

16. International Transfer of Fishing Vessels

The United States believes that an effective FAO global plan of action on managing capacity must deal with the "spillover" and "leakage" problem. To move forward on this issue, FAO can endorse a number of measures:

States and entities should agree on measures to mitigate the negative environmental impacts of trade in fishing vessels. As a general principle, fishing vessels may be exported when the importing country determines that the vessels will be deployed in a manner that is consistent with the sustainability of its domestic fisheries.

As stipulated in the previous section, States and entities should agree that, when implementing vessel buyout plans, they should ensure that bought-out vessels are not redeployed in foreign or high seas fisheries if such redeployment will exacerbate an existing overfishing problem.

As noted above in the section on subsidies and economic incentives, States and entities should refrain from providing economic incentives that promote the transfer of harvesting capacity from their own domestic fisheries to fisheries under the jurisdiction of other States and to the high seas, if such a transfer seems likely to undermine the sustainability of those fisheries.

CONSERVATION AND MANAGEMENT OF SHARKS¹

Draft U.S. Position
October 26-30, 1998, FAO Consultation

Issue: To adopt a global plan of action for conservation and management of sharks

Background

1. There is widespread concern over the increase of shark fishing and the consequences this has for the populations of some shark species in several areas of the world's oceans. Currently few countries actually manage their shark fisheries and there are almost no international management mechanisms actively addressing the shark fishing or the bycatch of sharks in other fisheries.
2. However, there are indications that an international consensus is beginning to emerge on the need for improved control of fishing for shark species, both in terms of directed shark fisheries and some fisheries in which sharks constitute a significant bycatch.
3. In 1994, the Ninth Conference of Contracting Parties of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) adopted a Resolution on the Biological and Trade Status of Sharks (Conf. 9.17), requesting *inter alia* that (1) FAO and other international fisheries management organizations establish programs to collect and assemble the necessary biological and trade data on shark species; and (2) all nations utilizing and trading specimens of shark species co-operate with FAO and other international fisheries management organizations.
4. The Code of Conduct for Responsible Fisheries (Code of Conduct) adopted by the FAO Conference in November 1995, the Kyoto Declaration and Plan of Action of December 1995, and the United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks of 1995 (Straddling Stocks Agreement) call for the conservation of biological diversity and the sustainable use of its component species, as well as the minimization of waste and discards. Article 7.6.9 of the FAO Code of Conduct and Article 5(f) of the Straddling Stocks Agreement contain the relevant provisions. Article 5(f) provides that ". . . States . . . minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species, through measures including to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques."

¹The term "shark" is taken to include all species of sharks, skates, rays, and chimaeras (Class Chondrichthyes).

5. Pursuant to the proposal at the 22nd Session in March 1997 of the FAO Committee on Fisheries (COFI) that FAO organize, in collaboration with Japan and the United States, using extra-budgetary funds, an expert consultation on the issue, representatives of FAO, the Governments of Japan and the United States agreed to organize an FAO Consultation on the subject in October 1998.
6. The objectives of the FAO Technical Consultation are: (1) to determine the specific requirements for sustainable global and regional management of shark species; (2) to develop guidelines for such management; and (3) to develop a Plan of Action aimed at promoting the widespread use of these guidelines by appropriate management bodies and arrangements (at national, and/or regional, and/or international levels) to be considered for adoption by the 23rd Session of COFI in February 1999. The Tenth Meeting of the CITES Contracting Parties, held in Harare, Zimbabwe, in June 1997, received the news of this initiative with great appreciation.
7. In preparation for the FAO Consultation, a group of experts from FAO, Japan, the United States, and other major regions utilizing and trading specimens of shark species was established, with 18 members appointed by FAO. This group is known as the Shark Technical Working Group (SHKTWG).
8. At a meeting in Tokyo, April 23-27, 1998, the SHKTWG reviewed four primary papers: (1) A Review of Data Needs for Management of Shark Fisheries; (2) The Summary: An Overview of Shark Fisheries by Region; (3) The Guidelines for Conservation and Management of Elasmobranchs; and (4) An Introduction to an Action Plan on Management of Elasmobranch Fisheries.
9. At the Tokyo meeting, the SHKTWG prepared the Guidelines for the Conservation and Management of Elasmobranchs (Guidelines) by breaking into two working groups, one focused on data and research needs and the other focused on management needs. FAO will consolidate the reports of these working groups into one document. The SHKTWG provided input for a draft Plan of Action to implement the Guidelines. FAO will prepare and submit to participants a report of the SHKTWG meeting, including Guidelines and a revised Plan of Action.
10. FAO has distributed a revised draft Plan of Action to FAO member countries for comment. FAO will be responsible for completing the final Guidelines and draft Plan of Action following the Technical Consultation scheduled for October 1998 in Rome. The results of the Technical Consultation will be submitted for adoption by COFI at the meeting scheduled for early 1999.

U.S. Position and Talking Points

11. The United States strongly supports the FAO Technical Consultation process and believes that meeting of the Technical Working Group on the Conservation and Management of Sharks was a solid success.
12. The United States recognizes the need for shark conservation and management at national, regional and global levels to ensure the sustainability of both consumptive and non-consumptive uses of sharks, and to maintain their biodiversity.
13. The United States further supports the use of the precautionary approach as the basis to prevent overfishing and to address priority issues in the conservation and management of sharks at all geographical levels, consistent with the Plan of Action and Guidelines.
14. Consistent with the need to ensure the sustainability of shark resources, the Plan of Action and Guidelines should describe strategies to strengthen the availability and quality of information on shark stocks and fisheries globally and monitor the implementation and monitoring of shark fishery management, including through the use of an FAO-prepared reporting format for annual submissions by FAO member countries to be utilized by FAO in preparing a report for each meeting of the FAO Committee on Fisheries.
15. The Plan of Action and Guidelines should prescribe, consistent with the precautionary approach, that shark conservation and management need not wait for perfect scientific data and that many stocks do not require the collection of additional scientific data to develop an appropriate and effective management system.
16. Furthermore, the United States should urge that the Plan of Action call for FAO member countries to implement, individually and collectively, appropriate national, regional and global conservation and management measures consistent with the Guidelines by December 2000. Regional organizations such as the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Inter-American Tropical Tuna Commission (IATTC) and other regional fishery management organizations should be identified specifically with respect to regional actions by December 2000, and FAO may be identified with respect to global action. In all cases, conservation and management action should commence immediately with at least one and hopefully several shark stock(s) or population(s) in greatest need of conservation and management.
17. To the extent the actions in the bullet above require new regional agreements or the adaptation of existing agreements, these efforts should also be undertaken.
18. The human and financial resources necessary to implement the Plan of Action at the national as well as the regional and international levels must increase for conservation and management to improve.
19. The Plan of Action and Guidelines should describe strategies aiming to account for all sources of fishing mortality, including bycatch and non-target fisheries, and to establish

adequate data collection programs to support monitoring (e.g. by observers), assessment, and management programs.

20. The United States strongly supports the development of a Plan of Action and Guidelines that describe steps to discourage waste of shark resources. Such steps may include *inter alia* changes in gear and fishing practices to reduce catches and mortality of non-target species. Additionally, the Plan of Action and Guidelines should describe steps to maximize survival of sharks released alive. The Plan of Action and Guidelines should, as necessary, address the subject of prohibiting finning as part of the effort to discourage waste and encourage the maximum utilization of captured sharks not released alive.
21. The Plan of Action should encourage regional training workshops on field methodologies for information collection, consultations between countries and entities to facilitate training, the development of regional field guides for sharks and shark products as appropriate, and the establishment of an internet web page for information dissemination.
22. The United States supports the requirements to prepare reports and the mechanism for sharing information in those reports set forth in the September 1998 International Plan of Action for the Conservation and Management of sharks-IPOA-SHARKS. FAO should prepare a report for each meeting of the FAO Committee on Fisheries.
23. The United States should support the international coordination mechanism called for in paragraph 1, Appendix D of the IPOA-SHARKS and urge that the FAO carry out this function.
24. The United States should seek clarity in the text of IPOA-SHARKS that this document applies to all species of sharks, skates, rays, and chimaeras (Class Chondrichthyes).
25. The United States should seek an amendment to paragraph 5 of IPOA-SHARKS so as to include the Northwest Atlantic Fisheries Organization in the list of fisheries management organizations that have initiated efforts encouraging members countries to collect information about sharks.
26. The FAO should convene meetings of representatives of the national Committees for Shark Conservation and Management, as necessary, to facilitate the sharing of experience in implementing the IPOA-Sharks and to generate potential advice for those FAO member states preparing to implement it.
27. The United States should urge deletion of the third sentence of paragraph 18 ("States that intend to adhere to the IPOA-Sharks should inform FAO of this decision.") and substitution of the words "adhere thereto" with "implement it" in the preceding sentence. The eventual adoption of IPOA-Sharks by the FAO should speak for itself and require no further action by FAO member states other than implementation.

REDUCTION OF INCIDENTAL CATCH OF SEABIRDS IN LONGLINE FISHERIES

Draft U.S. Position

October 26 - 30, 1998, Consultation

Issue: To adopt a global plan of action for reducing the incidental catch of seabirds in longline fisheries.

Background

1. Seabirds are being taken incidentally in various commercial longline fisheries in the world, including those of the United States, and concerns are arising about the impacts of that incidental take. For some seabird populations in decline, bycatch in longline fisheries is the major cause of the decline. For several other species of seabirds, killed in longline fisheries, serious declines are occurring for unknown reasons. Globally, at least 60 species of seabirds are known to be killed in longline fisheries. Seabird bycatch also has an adverse impact on fishing productivity and profitability; for every bait taken by a seabird, potentially one less fish may be caught by commercial fishers. Fortunately, these problems appear to be solvable through application of cost-effective measures.
2. Governments, nongovernmental organizations, and commercial fishery associations are petitioning for regulatory measures to reduce the mortality of seabirds in longline fisheries in which seabirds are incidentally taken.
3. Longline fisheries in which seabird bycatches occur include those for tuna, swordfish, and billfish in the South Pacific; toothfish in the Southern Ocean; Pacific halibut, sablefish, tuna, billfish, Pacific cod, and Greenland halibut in the North Pacific; and Atlantic cod, haddock, Greenland halibut, tusk, and ling in the North Atlantic.
4. The species of seabirds most frequently taken are albatrosses and petrels in the South Pacific and South Atlantic fisheries; northern fulmar in the North Atlantic; and albatrosses, gulls, and fulmars in the North Pacific.
5. Responding to the need to reduce the incidental mortality of seabirds in commercial fishing in the commercial fishing in the Southern Oceans, the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) adopted mitigation measures in 1992 to reduce seabird bycatch by its 23 member countries.
6. Under the auspices of the Commission for the Conservation of Southern Bluefin Tuna

(CCSBT), Australia, Japan, and New Zealand have studied and implemented seabird mitigation measures in their southern bluefin tuna longline fishery since 1992 and, in 1995, CCSBT adopted the recommendation relating to ecologically related species--especially the incidental mortality of seabirds by longline fishing, which stipulates the policy on data and information collection, mitigation measures, and education and information dissemination.

7. The United States also adopted, by regulation, seabird bycatch reduction measures for its groundfish longline fisheries in the Bering Sea/Aleutian Islands and Gulf of Alaska in 1997, and its halibut fishery in 1998. The United States is currently considering seabird bycatch mitigation measures in the Hawaiian pelagic longline fisheries.
8. One of the objectives of the FAO Code of Conduct for Responsible Fisheries, adopted in 1995, is to promote the protection of aquatic resources. The Code also contains an article (7.6.9) promoting management measures to minimize the catch of nontarget, non-fish species. It reads as follows: "States should take appropriate measures to minimize waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and negative impacts on associated or dependent species, in particular endangered species. Where appropriate, such measures may include technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries. Such measures should be applied, where appropriate, to protect juveniles and spawners. States and sub-regional or regional fisheries management organizations and arrangements should promote, to the extent practical the development and use of selective, environmentally safe and cost effective gear and techniques."
9. Pursuant to a proposal at the 22nd Session of COFI in March 1997, representatives of FAO and the Governments of Japan and the United States agreed to organize an FAO Consultation on the subject in October 1998. The objective of the FAO Consultation is to produce a Plan of Action for implementing mitigation guidelines to reduce incidental catches of seabirds in longline fisheries to be considered for adoption by the 23rd Session of COFI in 1999.
10. In preparation of the FAO Consultation, a group of experts from FAO, Japan, the United States, and other major regions that have problems with incidental catch of seabirds was established, with 18 members appointed by FAO. This group is known as the Seabird Technical Working Group (STWG).
11. At a meeting in Tokyo, March 25-27, 1998, the STWG reviewed three background papers: (1) A Description of Pelagic and Demersal Longline Fisheries, (2) The Bycatch of Seabirds in Specific Longline Fisheries: A Worldwide review, and (3) A Review of Longline seabird Bycatch Mitigation Measures and their Effect on Other Marine Species. These three documents have been combined and will be published as the FAO "Technical

Guidelines for Reducing Incidental catch of Seabirds in Longline Fisheries" (Technical Guidelines).

12. At the Tokyo meeting, the STWG also drafted: (1) Guidelines to Reduce Incidental Catch of Seabirds in Longline Fisheries (Guidelines) and (2) Plan of Action for Implementation of the Mitigation Guidelines (Plan of Action).
13. Subsequent to the STWG meeting, FAO has retitled the Guidelines as Technical and Operational Measures for Reducing the Incidental Catches of Seabirds (Measures) and included them as an annex to the draft Plan of Action. The combined background papers now have FAO status as Technical Guidelines. The United States supports this concept and commends FAO on providing a preliminary version of the Technical Guidelines prior to the FAO Consultation in October.
14. FAO distributed the draft Plan of Action, including the annexed Measures, to FAO member countries for comment in June 1998. A preparatory meeting for the Consultation was conducted in Rome in July 1998 during which time the draft [seabird] Plan of Action was discussed. FAO revised the draft Plan of Action and released the draft International Plan of Action (IPOA) with the Measures attached as Appendix C in September 1998 for the Technical Consultation in October 1998.

U.S. Position and Talking Points

15. The United States recognizes the importance of reducing incidental catches of all seabirds, both for the protection of seabird populations and for the continued operation of those fisheries that result in incidental catches.
16. The United States supports the development of technical and operational measures for reducing incidental catch of seabirds in longline fisheries, and mortality of seabirds that are incidentally caught.
17. The United States supports the approach that each longline fishery should adopt mitigation measures to reduce seabird bycatch, regardless of the population status of the seabird species. Such measures are consistent with Article 7.6.9 of the FAO Code of Conduct for Responsible Fisheries. See paragraph 8 above. These measures are not to be employed just to protect threatened or endangered species or species of management concern.
18. The United States supports that the draft IPOA is to be implemented in a manner consistent with the FAO Code of Conduct for Responsible Fisheries and any applicable rules of international law, including those of the Bonn Convention. The United States supports that the final IPOA also reference CITES and the Kyoto Declaration.

19. The United States agrees that, due to the diversity of the world's longline fisheries, there should be sufficient scope and flexibility in the Measures to accommodate this diversity. It is unlikely that any single mitigation measure will be sufficient to reduce incidental catch of seabirds effectively in all longline fisheries; it is similarly unlikely that a single mix of measures will be the most appropriate for all fisheries.
20. Consistent with the need for flexibility, the draft Measures contain a broad spectrum of technical and operational mitigation measures, which include but are not limited to: increasing the sink rate of baits, weighting the gear, thawing bait, line-setting machines, below-the-water setting chutes, bird-scaring lines, bait casting machines, Brickle curtains, artificial baits or lures, reduction of visibility of baits, reduction of the attractiveness of vessels to seabirds, area and seasonal closures, preferential licensing of vessels employing mitigation techniques/equipment, and release of live-caught birds.
21. The United States supports the development and the application of Measures that are designed to encourage cooperation by fishers, that include educational strategies, and that consider the cost-effectiveness of mitigation measures. Fishers and other interested groups should be involved in the development of measures.
22. The United States supports the inclusion at Appendix C, Part III, #2 of the draft IPOA of the additional operational measure that calls for the avoidance of the dumping of discarded fish, offal, fish heads, etc. with embedded hooks.
23. Agreement needs to be reached on a final IPOA that describes the responsibilities of each member State and the appendices that contain: A) guidelines for preparation of Assessment and Progress Reports, B) policy framework for developing an NPOA, C) optional mitigation measures, and D) estimate of necessary FAO resources to implement the IPOA. Such an IPOA should be adopted at the 23rd meeting of COFI, and should indicate February 2001 (24th meeting of COFI) as the date by which mitigation measures appropriate to each longline fishery will be in place and monitored for effectiveness.
24. The draft Plan of Action resulting from the March 1998 meeting of the STWG in Tokyo and further revised by FAO after the July 1998 preparatory meeting encourages all concerned States to adhere to the IPOA. Implementation of the IPOA would include: Preparation of an Assessment Report as described in Appendix A; based on a determination made in the Assessment Report, preparation of a National Plan of Action (NPOA) that follows the policy framework provided in Appendix B; regular assessment of the implementation and effectiveness of its NPOA; and submission of Progress Reports to FAO that include information about a State's progress toward implementing its NPOA. The United States supports these concepts in the final IPOA.
25. The United States should urge deletion of the third sentence of paragraph 10 ("States that intend to adhere to the IPOA-Seabirds will inform FAO of their decision and FAO will

provide information about States so adhered.") and substitution of the words "adhere thereto" with "implement it" in the preceding sentence. The eventual adoption of IPOA-Seabirds by the FAO should speak for itself and require no further action by FAO member States other than implementation. The concluding sentence of paragraph 10 should be "FAO will provide information about the participation of States in the IPOA-Seabirds."

26. The United States recognizes that implementation of the IPOA could also be carried out by appropriate fishery management bodies. The United States supports this concept in the draft IPOA that sub-regional or regional fishery management organizations strive to incorporate as part of their statutory activities the elements of the NPOAs of its members.
27. The United States supports the concept that States form a committee to prepare the Assessment Report, the NPOA, the Progress Report, and the regular assessment of the implementation and effectiveness of its NPOA. The United States should seek an amendment to paragraph 13 of IPOA-Seabirds that conforms to paragraph 19 of IPOA-Sharks. The FAO should convene meetings of representatives of these national committees, as necessary, to facilitate the sharing of experience in implementing the IPOA-Seabirds and to generate potential advice for those FAO member states preparing to implement it.
28. The United States supports that the final IPOA provide specific due dates for the various reports and documents that each State would prepare. The United States further supports that these various reports be submitted to FAO in their entirety and that FAO will make all submitted reports available to all concerned States through appropriate means.
29. The United States supports the implementation of the IPOA without unnecessary delay. Therefore, the United States suggests the following dates certain: a) Assessment Reports would be submitted to FAO by December 1999, b) NPOAs would be submitted by March 2000, c) NPOAs would indicate that appropriate mitigation measures must be implemented and monitored for effectiveness by February 2001, and d) Progress Reports would be submitted annually beginning in 2002.
30. The United States supports that the draft IPOA calls for States executing an NPOA to regularly assess its implementation at least every two years. The United States suggests that States do this for the purpose of improving the implementation and monitoring of, and the effectiveness of the mitigation measures that are required in a State's NPOA and also for the purpose of revising its NPOA if such improvements are identified.
31. The United States supports that Appendix B (policy framework for NPOA) of the draft IPOA calls for the NPOA to establish a monitoring program, if one is not already in place, to determine the incidental catch of seabirds in longline fisheries and the effectiveness of mitigation measures. The United States supports that Appendix B of the

final IPOA also specify the means by which data on incidental catch of seabirds, seabird species identification, and the use of mitigation measures will be collected, noting that an at-sea observer program is regarded as the most effective means of gathering representative and independent data.

32. The United States supports that Appendix B of the draft IPOA calls for NPOAs to prescribe appropriate mitigation methods and to recognize that each State will find it advantageous to implement a number of measures that reflect the need of their specific longline fishery.
33. The United States believes that the NPOAs should also specify plans for implementing mitigation measures no later than February 2001 and should also indicate or describe any collaborative efforts and initiatives being undertaken with national or international organizations with some jurisdiction or interests in fisheries, seabirds, and/or seabird interactions with fisheries.
34. The United States believes that FAO should prepare, every two years, a report for the COFI meeting beginning in 2001. This report should be a summary compilation of each member State's annual Progress Report and the status of progress towards implementation of the IPOA.
35. The United States supports the formation of an ad hoc FAO Seabird Technical Advisory Group to advise FAO (see Appendix D). As requested by the Chairperson of the preparatory meeting in July 1998, the United States provides for consideration the attached Terms of Reference for the FAO Seabird Technical Advisory Group.

Attachment

DRAFT
Terms of Reference

Seabird Technical Advisory Group

Proposal by the United States for the
FAO Technical Consultation on Reduction of the Incidental Catch
of Seabirds in Longline Fisheries

Objectives

1. To assist FAO in enhancing international cooperation, communication, and collaboration on all aspects of the incidental catch of seabirds, this Terms of Reference (TOR) establishes a Seabird Technical Advisory Group (Advisory Group) that will operate under the auspices, direction, and discretion of FAO. The Advisory Group will create a forum for the member states that are most affected by this seabird issue to participate in its resolution. To the advantage of FAO, the Advisory Group will concentrate on increasing the efficiency of FAO and member states in accomplishing several tasks enunciated in the Seabird Plan of Action. Member states needing technical assistance or expertise will find them readily available through the assistance of, and expertise within, the Advisory Group. The Advisory Group, however, will not provide policy direction to member states on any facet of seabird incidental catch, evaluate the appropriateness of national Plans of Action, fishing methods, or seabird incidental catch mitigation measures of any member state or regional organization, or serve in a capacity independent of FAO.
2. The objectives listed below will be pursued by the Advisory Group.
 - Upon request of FAO, provide technical and popular information on mitigation measures, including information on the technical, operational and economic efficiency of the measures.
 - Upon request of FAO, provide guidance on how to determine if a seabird incidental catch issue exists and, if a seabird problem exists, also provide advice on approaches to resolve the problem.
 - Upon request of FAO, provide technical guidance on monitoring seabird populations and seabird incidental catch.
 - Upon request of FAO, provide guidance on public outreach and education initiatives concerning seabird incidental catch, and training approaches that will enhance the implementation of mitigation measures.

Organization and Membership

3. The Advisory Group may consist of between 10 and 15 members exclusive of FAO staff. Members will be seabird bycatch experts with either scientific or operational experience in the incidental take of seabirds in longline fisheries. The membership could be experts from governments, scientific organizations, fishing industry, and environmental groups. The composition of the membership will not only reflect a broad range of seabird incidental catch expertise but should also possess knowledge of major fisheries with known or suspected seabird incidental take problems.
4. FAO will announce the establishment and membership of the Advisory Group by April 1999, and will request nominations from member states and other organizations with seabird bycatch expertise. The Committee membership will be selected and appointed by FAO by July 1999. Although FAO will provide staff and other administrative support for the Advisory Group, the Group will select their chairperson. FAO will provide each member state's annual report on seabird incidental catch to the Advisory Group.
5. A web-site for seabird incidental catch information will be established (by FAO) soon after the Advisory Group is established. The web-site will be updated periodically. This web-site information will ensure that the most current incidental catch information and research are available to all member states in a timely and efficient manner.

Meetings

6. The Advisory Group will meet soon after the 23rd meeting of COFI and following the approval of the Seabird Plan of Action, the TOR for the Advisory Group, and establishment of the Advisory Group. The Group may meet first as early as August 1999. Subsequently, the Advisory Group will meet periodically but not more often than annually. Informal coordination will also occur by electronic mail, phone and fax, and other communication methods deemed appropriate for the Advisory Group. The Advisory Group will remain active until it is abolished by FAO. The Advisory Group meetings will be conducted in English, and written documentation will be provided in English, French, and Spanish.
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