The NCMC
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TRADE LIMITS NEEDED TO BOOST CONSERVATION

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Big fish are imperiled by lawless seas

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"The tunas, billfish and sharks are among the most over-exploited animals in the sea," says National Coalition for Marine Conservation president Ken Hinman. "A big reason is that they are fished by so many countries that are either not party to international conservation agreements or if they are, they don't abide by them. In the absence of global conservation, closing the commercial markets that drive overfishing may be the only way to save them."

A proposal to ban worldwide trade in Atlantic bluefin tuna goes before the U.N.'s Convention on International Trade in Endangered Species, or CITES, in March, along with listing proposals for a number of sharks killed for the fin trade. And here in the United States, an effort aimed at prohibiting imports of marlin and sailfish caught in the Pacific is gaining new momentum.

Putting bluefin tuna under CITES would be a major breakthrough, smashing myths that highly migratory fish can't be endangered and overcoming notions of fish as food, not wildlife. The proposal has already gained support within the European Union, a major tuna harvester, and within CITES itself, whose own science committee recently recommended an end to trade in the seriously depleted bluefin. Incredibly, the U.S. is still on the fence, worried that a ban would unfairly penalize U.S. fishermen who take a small part of the total catch. (For more on the U.S. and CITES, see *Bluefin on the Block*, p. 3).

A BILL TO TAKE MARLIN OFF THE MENU

Another myth in need of smashing is that the U.S. is no longer part of the problem when it comes to billfish. Yes, anglers strive to release every marlin and sailfish alive, we've closed our markets to Atlantic billfish and prohibited commercial fishing for marlin off the west coast, leaving only a small fishery in Hawaii and the island territories. But according to a study commissioned by the IGFA, NCMC's partner in the campaign to **Take Marlin Off the Menu**, 10-15,000 foreign-caught marlin are imported from the Pacific, where no catch limits exist, for sale in U.S. restaurants and seafood counters each year.

"To put these numbers in perspective,

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Ocean View
Commentary

MAD MAX

"Like the mythical sculptor Pygmalion," wrote Schnute and Richards in their 2001 treatise on the Use and Abuse of Fishery Models, "the creator can fall in love with his creation and become blind to other realities."

Many people embedded in conventional fisheries management – managers and scientists among them – like to think that our present system of assessing stocks and setting catch limits is based on the best science. To them, proposed alternatives, especially ecosystem-based ones, are untested, their population targets and fishing limits arbitrary and ultimately unscientific. As if the doctrine of maximum sustainable yield (MSY) is as much a product of natural evolution as the species we fish.

In fact, MSY-based management is grounded in *policy*, not science, and economic policy at that. Mathematical models are used to determine the population that will produce the highest yield (read profits) to the fishery on a sustainable basis. Let's be clear. It's not about the health of the fish or the ecosystem, it's about fishing. Overfishing is defined as a level that jeopardizes the stock's ability to fulfill the needs of the *fishery*. The targets and limits managers set, and which their scientists provide advice on, are based on social and economic objectives.

Managing and conserving, say, prey fish like herring and menhaden to balance the needs of fishermen *and* non-human predators is a policy decision too, one that scientists cannot or will not make. Yes, they can estimate what portion of the standing population is available to predators, which is the only way our current single-species stock assessments account for predation. But they cannot tell managers whether that is enough to meet predator *needs* - a different question entirely - unless managers set ecological goals, too.

MSY IS ECOLOGICALLY *AND* ECONOMICALLY UNBALANCED

It is a scientific fact that fishing at or near MSY – which typically reduces a fish population to around half its carrying capacity - dramatically alters the food web, takes food away from predators and limits their numbers. To pretend otherwise is to mistake policy for science. Now that doesn't mean we should stop fishing, only that we need to fish smarter. And that begins with being honest about what it is we are really doing, what the impacts on the ecosystem are, and explicitly incorporating these impacts into our management policies.

Ironically, MSY, an economic policy, is just as unsound economically as it is ecologically. By continually trying to maximize catches of fish, in effect fishing as near to the edge of sustainability as we can, we maximize the risks of overfishing and the corresponding losses in revenue and jobs and reduced supplies of seafood. By constantly having to stop overfishing and rebuild overfished stocks, we maximize the costs of management, as measured in research, regulation, monitoring and enforcement, and the many hours of meetings, workshops and hearings that thousands of people must attend.

Finally, in order to maximize fishing profits, we socialize the costs, and the public picks up the tab. In some fisheries, the costs of management may outweigh the benefits. More conservative, more precautionary, ecosystem-based policies, we believe, would better serve the fish, fishermen, and the public.

-Ken Hinman, *President*

NATIONAL COALITION FOR MARINE CONSERVATION

Founded in 1973

The NCMC is a 501(c)(3) non-profit organization dedicated to the following goals:

- preventing overfishing and restoring depleted fish populations to healthy levels
- promoting sustainable use policies that balance commercial, recreational and ecological values
- modifying or eliminating wasteful fishing practices
- improving our understanding of fish and their role in the marine environment
- preserving coastal habitat and water quality.

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BLUEFIN ON THE BLOCK

In a January 4th letter to the Obama Administration, the National Coalition for Marine Conservation (NCMC) re-stated its support for listing Atlantic bluefin tuna under the Convention on International Trade in Endangered Species (CITES), citing the precarious biological state of bluefin, the abject failure of management efforts to date, and the need for trade restrictions as a backstop to save this magnificent fish and the fisheries it supports from impending collapse.

The Administration announced its conditional support for a CITES listing last October, awaiting the outcome of the November 2009 meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT). "Unless ICCAT adopts significantly strengthened management and compliances measures," declared Assistant Secretary for the Interior for Fish and Wildlife Tom Strickland, "the United States will exert complete and vigorous support for (the) CITES Appendix I listing proposal."


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The tuna commission, clearly motivated by the impending threat of a total ban on trade, slashed the quota for bluefin, but is it enough to save the species? And is it enough to convince the world, when the 175-nation CITES convention meets March 13-25 in Doha, Qatar, that an endangered listing is no longer necessary?

"Recent promises made by countries fishing the Atlantic to cut back on their bluefin catch have not changed our position that a trade ban is the last best hope for bluefin," says NCMC president Ken Hinman, an advisor to the U.S. ICCAT Delegation, "nor should they change the position of the United States."

ICCAT agreed to substantial reductions in fishing in the eastern Atlantic; namely, a quota for 2010 of 13,500 tonnes and a restricted two-week season for purse seining on the bluefin's Mediterranean spawning grounds. The new quota, however, remains at the high-risk end of the range recommended by ICCAT's Standing Committee on Research and Statistics (SCRS), which was between 8,000 and 15,000 tonnes, depending on stock productivity hypothesis and rebuilding probability. The SCRS also recommended a complete closure of the Med. ICCAT further agreed to establish at its fall 2010 meeting catch limits for 2011–2013 that have at least a 60% probability of rebuilding to the target level by 2022, which will likely require a much larger reduction in quota.

ICCAT's history of management and its contracting parties' record of compliance, unfortunately, do not instill confidence that the future for Atlantic bluefin will look much different than the past. In recent years, the catch of eastern Atlantic and Mediterranean bluefin has greatly exceeded recommended quotas, in some years by more than double. While encouraging steps have been taken to improve compliance and reporting, it is likely that actual catches will remain above the agreed-upon quotas for the foreseeable future, quotas that are less than precautionary to begin with.

Adding to skepticism about the long-term effectiveness of ICCAT's most recent action, including promised follow-up action at the 2010 meeting, we recall what happened after a CITES proposal was withdrawn based on a promise by ICCAT in 1993 to follow SCRS advice and cut the quota for western Atlantic bluefin by 50%. After the CITES spotlight was turned off, the quota, reduced by only 25%, crept back up in the ensuing years to pre-1993 high levels, with the result that there has been no rebuilding of the western spawning stock since.

For these reasons, and in order that CITES action ultimately complements, strengthens and enforces international management through ICCAT, the NCMC strongly urged the United States:

- To support the proposal submitted by Monaco to list Atlantic bluefin tuna in Appendix I – a complete ban on international trade - on the condition that the CITES prohibition will be lifted only when, at a future meeting of the convention, ICCAT members can demonstrate they have adopted, implemented and fully enforced measures that are consistent with the most precautionary scientific advice and will lead to recovery of the stocks with a high probability within 10 years.
- Failing an Appendix I listing, the U.S. should support listing Atlantic bluefin tuna in Appendix II, which would enhance monitoring and reporting of fishing and trade to enforce compliance with ICCAT agreements while creating a platform for moving bluefin tuna to Appendix I at the next meeting of CITES, in the event ICCAT management – adherence to existing agreements and promised follow-up actions in 2010 - does not set bluefin tuna on a fixed rebuilding course due to inadequate conservation and / or compliance. ❑

SEPARATION ANXIETY

Catch Decisions Move to Scientists, Politics Follows

Do not pray for tasks equal to your powers. Pray for powers equal to your tasks. – Phillips Brooks

In 2006 Congress changed the playing field on fishery managers and separated conservation from allocation, giving the penultimate decision on setting the total allowable catch for each fishery to the councils' scientific advisors. Members of the Regional Fishery Management Councils, who are mostly appointed from the fishing industry, can set the catch lower, for a number of reasons, but can go no higher.

The change was meant to take politics, namely catering to vested fishing interests, out of conservation. It gives priority to conserving the resource for future generations over immediate economic demands. It's a change that was first suggested by a NOAA panel as early as 1986 and one that the National Coalition for Marine Conservation (NCMC) made a priority in the last renewal of the Magnuson-Stevens Fishery Conservation and Management Act.

So how's it going? Well, it seems neither side is entirely happy with the new arrangement. Not surprisingly, the councils don't like ceding what is arguably the most important decision fishery managers make and from which all others stem, not least of which is divvying up the available catch among competing groups of fishermen. It takes away their "flexibility," they complain; which was the point, of course, since such discretion is regularly abused.

For their part, scientists – in this case, the councils' Scientific and Statistical Committees, or SSCs – aren't accustomed to making what are, yes, science-based decisions, but which are fraught with social and economic implications. Fishery biologists and stock modelers, as experienced as they might be in assessing whether fishing is sustainable or a stock is overfished, are not comfortable telling fishermen what they can catch; which seems to them like, well, politics.

GIVE THE PEOPLE WHAT THEY WANT

Comfort levels rise with time. But in the short period since the new arrangement took effect in 2009, a disturbing pattern has emerged that bodes poorly for the notion of science-based conservation free of politics.

Last year, the New England Council's SSC, after reviewing the latest stock assessment, set an allowable biological catch, or ABC, for Atlantic herring well below recent catch levels. The decision set off a firestorm of industry protest, backed by hard-to-ignore calls for a recount from New England's congressional delegation. The council remanded the decision back to the SSC for reconsideration and, long story short, the scientists caved in. The SSC provided the council with a menu of options this time, from which the council selected a new ABC 18% higher than the first.

A similar scenario played out in the mid-Atlantic, where that council's SSC set a conservative catch for black sea bass, triggering angry complaints from the region's fishermen. The Mid-Atlantic Council directed its scientists to go back to the drawing board and see if they could come up with something less draconian. They did, effectively doubling the allotment of sea bass for 2010.

In both instances, the original ABCs took into account high levels of scientific uncertainty about stock status and the impact of fishing, with the SSCs opting to minimize risk to future abundance. No new peer-reviewed information was presented; instead, the SSCs decided they could be less precautionary. In each case, the new, higher ABCs can be justified on the basis of the available science; after all, the greater the uncertainty, the wider the range of options. But that's not the point. The perception is that the 2010 catch levels for both sea herring and sea bass are the result of the scientists being bullied into changing their minds.

Needless to say, the councils and a lot of their constituents are happy with the reversals and they defend the higher catch quotas as SSC recommendations. They are right - technically. But no one who followed these events can deny that the ABCs changed, not because of prior error or information not previously available, but because of the influence of short-term economics.

That is not what Congress intended. But as they say in court, intent follows the bullet. What's most troubling about all this is that the whole idea of separating decisions on conserving fish for the long term from their allocation to fishermen in the short term may have been mortally wounded, with scientific guidance compromised and a precedent set for future council / SSC interactions.

ERRING ON THE SIDE OF … WHAT?

In order to account for scientific uncertainty, the Magnuson-Stevens Act's National Guidelines call for putting a precautionary buffer between the overfishing limit - which is the maximum sustainable yield - and the allowable biological catch. The buffer between MSY and ABC, which may be large or small depending on the amount of risk involved, is to assure that when fishery managers err – as they most certainly will – it is on the side of the resource, not overfishing.

(continued on next page)

SHARK CONSERVATION ACT AWAITS FULL SENATE VOTE

On February 4th, Senator Rockefeller (D-WV), Chairman of the Senate Committee on Commerce, Science, and Transportation (Commerce Committee), reported the Shark Conservation Act (S. 850) in the Senate, where it now awaits a date for a floor vote. The Commerce Committee approved the bill for a full Senate vote on November 19th. Introduced by Senator John Kerry (D-MA), S. 850 mirrors legislation passed by the House of Representatives in March 2009. If enacted, the Shark Conservation Act would strengthen the U.S. shark finning ban and encourage other countries to implement comparable regulations or face U.S. sanctions. A requirement to land all sharks with their fins naturally attached would apply to all vessels within the United States and its territories, helping not only to enforce the shark finning ban but also to assist in the identification of sharks, improving our understanding of shark populations.

We are closer than ever to realizing this important victory for sharks. The Senate vote is the final hurdle to overcome before the bill can reach the President's desk to be signed into law. Keep the momentum going! Visit www.savethefish.org to view a list of bill cosponsors and a sample letter to send to Senators who have not yet joined the cause. ❑

SEPARATION ANXIETY (*Continued*)

The councils, after getting the ABC recommendation from the science panel, must account for what is called management uncertainty when setting the final allowable catch limit, or ACL. In other words, there may be an additional buffer placed between the ABC and ACL because managers are not confident that monitoring and regulation of the fishery can keep catches from exceeding the target level.

In late 2009 the New England Council voted to reduce fishing mortality on sea scallops in 2010 because of management uncertainty, specifically the fact that actual catches in 2008 and 2009 were substantially higher than predicted, at or above the overfishing threshold. The council selected a more conservative target in 2010 to account for this retrospective pattern of over-harvest. The outcry from the scallop industry, which had enjoyed two banner years of catches and higher than expected profits, was predictable. Once again, New England's congressional representatives weighed in. Council members were berated in the regional press. In late January, enough council members were persuaded to change their vote and allocate an additional 6 million pounds of scallops.

The National Marine Fisheries Service was supposed to provide technical guidance in 2009 on how to deal with uncertainty in fisheries science and management, but has yet to do so. The councils have yet to develop policies on how to handle risk. Lacking such guidance, council members and their SSCs are on their own. By inclination, most scientists are cautious and respect uncertainty and risk, as evidenced by the original decisions in the herring and black sea bass cases. But as we are seeing, buffers established for uncertainty, either scientific or management, can quickly disappear under political pressure for more fish. ❑

TRADE LIMITS NEEDED TO BOOST CONSERVATION *(Continued from page 1)*

that's more than the U.S. longline bycatch of billfish in its worst year," says NCMC's Hinman, "a bycatch that caused national outrage and closed large areas of our coastal waters to indiscriminate longlining. It's outrageous to think every billfish we save here in the U.S. is being killed overseas because we're buying them!"

In its first year, **Take Marlin Off the Menu** began educating the public. A Harris Poll we conducted showed 78% of consumers, informed of the marlins' plight, will not eat or order billfish. A top chef, Wolfgang Puck, and a prominent retailer, Wegman's Food Markets, took the marlin-free pledge and others have followed. "Marlin Don't Grow on Trees" ads have appeared in numerous marine publications.

While the outreach goes on, the next step is working for national legislation to prohibit the importation and sale of Pacific billfish. Opposition is likely to come from Hawaii and the territories. But we can't let these small domestic markets stand in the way of saving thousands of marlin on the high seas. That would be like the U.S. standing in the way of a CITES listing to save bluefin tuna.

Expect a bill in Congress this year to take marlin off U.S. menus. Expect to be asked to support it. Stay tuned. ❑

Visit **www.savethefish.org** and **www.TakeMarlinOfftheMenu.org** for updates.

NEW OFFSHORE AQUACULTURE LEGISLATION PRIORITIZES SUSTAINABILTY

Congresswoman Lois Capps (D-CA) is spearheading the first national offshore aquaculture legislation to include explicit standards to protect wild fish, ocean habitats, and the people that depend on them. Her bill, the National Sustainable Offshore Aquaculture Act of 2009 (H.R. 4363), was introduced in the House of Representatives on December 16th. National legislation would bring to an end the dangerous piecemeal approach to ocean fish farming that began last fall with NOAA's tacit approval of the Gulf of Mexico Fishery Management Council's aquaculture fishery management plan (See MB 127, p. 5).

Modeled after her own state's legislation, California's Sustainable Oceans Act, the bill strives to balance environmental, social, and economic concerns. "Developing these guidelines has the potential to preserve the integrity of our fragile ocean ecosystems, meet the increasing consumer demand for seafood, reduce stress on wild fish populations, and create jobs here at home," stated Capps in a press release following the bill's introduction.

"By taking a precautionary approach, prioritizing research, and establishing clear environmental safeguards, this bill is headed in the right direction," said NCMC Executive Director Pam Gromen.

Among the bills strengths are:

- Requiring environmental impact assessments to be completed prior to issuing any permits;
- Prohibiting "fish ranching," where undersized wild-caught fish are fattened for market in ocean pens;
- Establishing a research program to bridge data gaps and update regulations; and,
- Limiting aquaculture species to those native to the region where the facility is located.

NCMC remains concerned about the risk to forage fish from the demand for feed. While the bill highlights this important issue, the provisions are not explicit enough to be enforceable and would do little to prevent U.S. ocean aquaculture from putting additional pressure on forage fish populations that are already fully exploited.

Language pertaining to the protection of sensitive habitat, prevention of cumulative impacts (e.g., effluents from multiple aquaculture farms in one area), and the timely incorporation of new science into permits also needs to be strengthened. NCMC is currently engaged with its allies in the conservation and fishing communities to ensure these and other measures meet the bill's intent to protect marine ecosystems and fisheries from aquaculture impacts. ❑

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