

INTERNATIONAL EFFORT NEEDED TO HALT MARLIN DECLINE

The future of these threatened billfish is in our hands, if we act now.

By Ken Hinman

It's popular to point out that, when it comes to protecting the big fish that roam throughout the Atlantic, the multi-nation International Commission for the Conservation of Atlantic Tunas, or ICCAT, is the only game in town. That may be true, but when it comes to the fate of billfish, the ball most certainly is in our court.

On January 14 of this year, the Center for Biological Diversity and Turtle Island Restoration Network jointly sued the National Marine Fisheries Service (NMFS), asking a federal court to overturn the agency's decision not to list the white marlin as "threatened" under the Endangered Species Act. In response to an earlier petition for listing filed by the CBD, NMFS instead made white marlin a "candidate species" pending the results of another status review in 2007. The two environmental groups don't think white marlin can last that long. They contend that, unless more is done to reduce fishing mortality, "the species will, in the foreseeable future, face a high risk of extinction."

"In rejecting ESA listing for the white marlin, NMFS ignored the science and it ignored the law," explains CBD attorney Brendan Cummings. "We're confident the courts will overturn this unlawful decision."

And if they do? As worried as anglers are about the future of white marlin – and blue marlin, for that matter – the prospect of enlisting the help of the ESA in protecting billfish makes many fishermen uneasy, and some downright apoplectic. It's equal parts a fear of the unknown – the mythical "blind justice" wielded by federal agencies overzealously enforcing the law – and a lack of trust in NMFS, which would be responsible for implementing it. Although the plaintiffs claim the threat to white marlin is almost entirely commercial fishing and further restriction of the recreational fishery is unwarranted, few anglers are willing to take a chance on their friends at NMFS dipping into a Pandora's box of regulations and imposing unnecessary and counter-productive restrictions on offshore sport fishing.

Doing Our Part

Anglers and the proponents of ESA action do agree on most everything else: that white marlin, and to a lesser extent blue marlin, are in awful shape and in dire need

of help; that the problem is longlining; and that U.S. anglers are doing more than their share to conserve billfish.

The U.S. has walked the walk when it comes to protecting marlin. The recreational fishery is nearly all catch-and-release and has been for years. Commercial landing of Atlantic marlin and sailfish has been illegal for more than a decade. Large areas of ocean have been closed to longlining to keep fatal interactions with non-target species to a minimum. All together, these unilateral actions have helped preserve the presence of billfish in our coastal waters, but have not arrested the stock-wide decline. For that, we need the help of others. We need ICCAT.

Unfortunately, the political reality is that most other ICCAT members view billfish as merely a byproduct of more valuable commercial fisheries. They are opposed to placing additional restrictions on their longline fleets in order to conserve what they consider an incidental catch. In a perverse way, our leadership in billfish conservation, rather than letting us off the hook, only puts the onus for a marlin recovery squarely on the U.S. - and the recreational fishing community above all.

The heart of the CBD complaint can be found in this sentence: "(T)he Atlantic white marlin population is far below the level it needs to be in order to insure the species' long-term survival *at present fishing levels.*" (emphasis added) Indeed, the most recent ICCAT assessment of white marlin, done in 2000, put the population at just 6% of what it was before the advent of large-scale commercial longlining for Atlantic swordfish and tunas in 1960. Put another way, a tiny fraction of the number of marlin that existed when fishing was primarily done with rod-and-reel. Accepting that this assessment is accurate – and the NMFS status review performed for the ESA petition paints the same bleak picture – the dire condition of white marlin is not in dispute. Whether or not it qualifies as "endangered," however, is.

Additional Regs Needed?

But the other question is more important, I think, and that's whether or not current fishing regulations are adequate to rescue white marlin and, if not, how to remedy the situation. ICCAT's management responsibility is to rebuild the population to about half the pre-longlining level, or about 8 times its present size. When the current international management program was adopted four years ago, the fishing mortality rate was several times the level needed to prevent further population decline. Commercial fishing accounts for around 99 percent of this mortality, and of this about 92 percent is caused by longlining for tuna and swordfish. In 2000, in what it described as the first phase of a marlin rebuilding program, ICCAT recommended all nations fishing the Atlantic reduce their commercial billfish landings by 67% for white marlin and 50% for blue marlin. The commission also asked these vessels to release all marlin brought in alive.

Relying on this ICCAT program makes a lot of people uncomfortable, and for good reason. Actually, three reasons: 1) Marlin will continue to be hooked on longlines

and many (25-50 percent by most estimates) are already dead when the lines are retrieved; 2) some ICCAT members have a less than stellar record of compliance with conservation rules; and 3) there is a significant level of “illegal, unreported and unregulated” fishing in the Atlantic by non-treaty nations.

It’s not hard to make the case – and in fact the ESA plaintiffs are making it – that relying on an international body with a proven record of ineffectiveness is risky, to say the least. The second phase of the ICCAT conservation program is slated to kick in following the next stock assessment in 2005, after which new measures will be added, if they are necessary. Given all of the above, it’s difficult to imagine they won’t be.

So what to do? First of all, I don’t share the plaintiffs’ confidence that the courts will overrule the ESA decision. At the time NMFS reviewed the status of white marlin (2002), the ICCAT rules had been in effect for only a year. Judging a highly migratory fish to be “threatened” or “endangered” is brand-new territory and thus highly subjective. Under the circumstances, designating white marlin a “species of special concern,” and scheduling another review after international measures have had a few years to work, might appear to the court to be a reasonable course of action.

I admit to having little experience with the ESA and the courts. I could be completely wrong. It could just be wishful thinking on my part. Once the matter is before a judge, we can only watch from the sidelines and, if we choose, root for one side or the other. But I must confess, I’ll be rooting against bringing the ESA into play.

My reasoning is simple. Arguably the weakest component of NMFS’ decision not to list – and I believe its biggest vulnerability in the lawsuit - was its reliance on future ICCAT regulations being effective in protecting white marlin. But granting that we *need* stronger regulations from ICCAT in the future, the last thing we want to do now – with the second phase of the international rebuilding program set to be negotiated next year - is turn the attention and the resources of the U.S. government, the fishing community and conservationists on ourselves. I don’t want the U.S. divided and looking inward at a time when it’s never been more critical that we be united in facing up to the rest of the world.

ICCAT Issues

We have an opportunity in 2005 to strengthen Atlantic-wide conservation of billfish – perhaps our last such opportunity. It’s going to take all the resources we can muster and we can’t afford any distractions. Getting what’s needed out of ICCAT will require an unprecedented effort by the U.S. Quite simply, marlin conservation will have to be the Administration’s number one priority at ICCAT over the next two years.

Billfish are a low priority for most other ICCAT members, including those with the biggest fleets. They know that the U.S. is the lone instigator on billfish conservation and, within the U.S., it’s recreational fishermen that are the driving force. At the 2003 meeting in Dublin, Ireland, when the U.S. delegation should have been laying the

groundwork for future conservation agreements, we ended up on the defensive. The European Union (EU), knowing that the best defense is a good offense, took aim at the U.S. recreational fishery by proposing a resolution meant to prevent angling from “interfer(ing) with commercial fishing activities” or “undermin(ing) the sustainable exploitation of the stocks.” It was unnecessary, insulting and ultimately withdrawn, but it served its purpose, which clearly was to put us back on our heels and take us out of our game.

In fact, the U.S. for too long has allowed itself to be put on the defensive when it comes to billfish. Since 2001, U.S. anglers have been limited to landing a combined total of 250 blue and white marlin a year. Other fishing nations care little about the fate of 250 marlin, give or take. They count fish, including marlin, by the metric ton, not on their fingers. In any case, the marlin cap was a bargaining chip, anted up to demonstrate our commitment to conservation. But thanks to constant prodding from our commercial ICCAT commissioner and the usual finger-pointing from the longliners, NMFS is now hell bent on counting every last marlin landed by recreational anglers. Worst of all, they’ve let themselves be cajoled into acting like the future of marlin depends on it.

Last July, NMFS director William Hogarth, who also serves as head of the U.S. delegation to ICCAT, told a gathering of recreational anglers, “If the U.S. fails to implement this cap (of 250 fish), other ICCAT fishing nations can impede or halt the ongoing international efforts to recover Atlantic marlin.” Think about that. If we land, say, 280 marlin – 30 fish over our limit – we will go to ICCAT with our tails between our legs and ask forgiveness from the commissioners of countries that are still killing hundreds of metric tons!

In spite of the enormous economic value of recreational fishing for billfish – a value in dollars and jobs that exceeds that of our commercial fisheries for bluefin tuna and swordfish – those two species have dominated the U.S. agenda at ICCAT for 30 years. Marlin, white marlin in particular, are in the worst shape of all the fish under ICCAT jurisdiction. It’s past time to give these fish, and the fishermen that depend on them, their due. Unless the recreational community speaks up, loud and clear, and *demand*s satisfaction, commercial fishing lobbyists on the U.S. delegation will continue to dominate, billfish will get short shrift at ICCAT, and marlin conservation will suffer.

I can’t overstate the enormity of the task we face. Even prohibiting all commercial fishing for marlin would not necessarily recover their populations, as they will continue to be caught and killed when longliners are fishing for swordfish and tuna. The only viable method of recovering marlin stocks in the Atlantic is through international time-area closures to longline fishing where marlin congregate to feed and spawn. It is doubtful marlin have any hope of recovery – at least in our lifetimes - without them.

Obtaining international closures at ICCAT will take dedicated and prolonged leadership from the U.S. delegation. Between now and 2005, when new rules will be

considered, we must make fishery officials from other countries understand how important billfish are to the U.S. public and the U.S. economy. We must be as aggressive in pursuing our national goals for billfish as we have been for bluefin tuna and swordfish. That means a combination of continued leadership by example (keeping strong and effective U.S. billfish conservation measures intact), a defined and determined international strategy (development of a strong conservation plan based on the lowest possible landings limits augmented by restrictions on longlining and netting in billfish bycatch “hotspots”), and *aggressive* pursuit of our billfish conservation agenda by the *entire* U.S. ICCAT delegation.

Whether or not you think white marlin should be managed as an endangered species, it's a situation best avoided. And the best way to avoid it is for billfish anglers to demand that the U.S. go to ICCAT this year and next with a single purpose and dogged determination to achieve it. The ESA is and should be the court of last resort. So while the ball is still in our court, and it's still playable, let's give it our best shot.

Be Heard!

The recreational community has been likened to a sleeping giant that, when awakened, is a force to be reckoned with. It happened in 1989 when we banned the U.S. sale of billfish and again in 2000 when we prohibited longlining in areas with high bycatch. It's time once again to make our voices heard. Write to Dr. William Hogarth, U.S. Commissioner to ICCAT, c/o NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Tell him that you, as an angler and someone who cares about the future of billfish, want the U.S. to make marlin conservation, including the use of time-area closures, our highest priority at ICCAT between now and the 2005 meeting.