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THE LONG VIEW

"So far," says a friend only half-jokingly, "the Nineties seem just like the Eighties." Those who long for change to come in sudden and profound ways are usually disappointed. In the cause of marine conservation, for instance, there has not been, nor is there likely to be, a breakthrough equivalent to the toppling of the Berlin Wall. The evolution of ideas is slow, and new ideas are put into action even more slowly. Only a crisis draws a quick response, but it rarely has a lasting impact. Things return to normal soon enough, until the next crisis comes along.

So assessing progress made in the Eighties requires the long view; where we've been, where we are now, and where we are headed. First, we should recall that the federal system set up to manage and conserve marine resources was born into a complete void in 1976, and after several years in infancy, spent most of the last decade learning to walk. Management under the Magnuson Act is still wobbling a little as we move into the new decade; yet we are making progress and setting the stage for more.

We have finally reached a pivotal point where the primacy of long-term conservation over short-term exploitation, and preventive over reactive management, is accepted, as policy if not always in practice. Representation on the Regional Councils has gone from commercial domination across-the-board to a fair balance of interests in most regions. We are advancing toward our ultimate goal, which is a majority of Council members who vote on behalf of the resource first, with self-interest secondary.

Environmental protection is now recognized as an integral part of fish conservation. NMFS and Council habitat responsibilities are expanding. This in turn has awakened mainstream environmental groups to fisheries as a conservation issue. After years of passive acceptance, fishery managers have begun to address the serious by-catch problems created by non-selective gear - it's estimated that the world's commercial fishermen catch and discard somewhere between 12 and 20 billion pounds of sea life each year - and are exploring legal, scientific and technological solutions.

The conservation ethic is spreading rapidly among fishermen. We've witnessed tremendous growth in the number of anglers actively supporting organizations dedicated to preserving the nation's fisheries. And although commercial and recreational fishermen seem at times as polarized as ever on allocation issues, they are united, and in some cases working together, on the fundamental issues of stock restoration and a healthy environment.

Because we are constantly absorbed in trying to solve the problems of the day, it's easy to forget how far we've actually come. On the other hand, though history is on our side, time definitely is not. We look back only to renew our commitment to push that much further in the years ahead.

UPDATE: MAJOR ISSUES OF 1989-90

In 1989, fishing restrictions were proposed for bluefish (ahead of time), shark (just in time) and swordfish (too late), while measures were eased for striped bass (too soon). Rebuilding programs for mackerel and redfish seem to be working, but current measures for groundfish, billfish, and bluefin tuna are not. Fishing for the other tuna species remains unregulated. NOAA Fisheries will enter the Nineties with new leadership, but a budget left over from the Seventies. Gear issues were as controversial as ever, and promise to heat up even more. The need to do a better job protecting fish habitat became more urgent.

Marine Habitat/Environment

The year began on an ominous note. A Congressional report, entitled "Coastal Waters in Jeopardy," warned that the coastal environment is being overwhelmed by wildfire development and chronic pollution, pulling the rug out from under the nation's commercial and recreational fisheries. The number and magnitude of assaults on the coast revealed the more publicized Exxon Valdez oil spill for what it was, a small part of a much bigger problem. Several aggressive anti-pollution initiatives were filed in Congress during 1989, supported by the NCMC through the environmental alliance Fishermen Involved in Saving Habitat (FISH). Rep. Gerry Studds' sweeping "Coastal Defense Initiative" and other bills are expected to receive top priority in 1990.

Congress also directed the National Oceanic and Atmospheric Administration (NOAA), the Environmental Protection Agency (EPA) and other responsible government agencies to make coastal resource protection a higher priority, and to better coordinate their efforts. The EPA announced a new "no net loss" wetlands policy, and then forged a landmark agreement with the Army Corps of Engineers on reviewing wetlands destruction permits under the Clean Water Act. But the Bush Administration, bending to pressure from oil industry and development interests, waived approval. The NCMC joined other conservation groups in urging President Bush, who initiated the "no net loss" policy, to stand firm for wetlands protection.

At year's end, legislation was being drafted, reportedly with the backing of the Administration, to create a new Department of the Environment, bringing the EPA to cabinet level. There was talk of incorporating NOAA, too, removing it from the Commerce Department, a move long-advocated by the NCMC to elevate ocean and fisheries responsibilities within the Administration.

Congress considered making additions to the Coastal Barrier Resources System, which protects undeveloped areas of the coastline. The NCMC co-sponsored a workshop on coastal barrier protection and, through membership in the Coast Alliance, supported legislation to expand the system to include all eligible coastal barriers. Development interests are fighting expansion. New lands will probably be added, but how much will be determined as debate on the contentious issue is taken up again in the 1990 session. The Coalition also finalized plans for a National Fish Habitat Conservation Conference, to be held March 7-9, 1991 in Baltimore.

Bringing Tuna Under the Act

International management continues to fail the Atlantic bluefin tuna, while domestic management neglects all tuna and the other species caught along with them on longlines. All there is to show for eight years of a

weak ICCAT bluefin program is a running argument over whether the stocks are showing a slight sign of recovery, or none at all. Bluefin thrive, though, as a symbol of the folly of leaving management of highly migratory species entirely up to ocean-wide agreements. Such agreements offer little prospect of conservation for the other species of tuna - yellowfin, bigeye, blackfin, etc. -that make up a large part of our expanding domestic longline fishery.

The NCMC is devoting substantial effort to promoting an alternative - extending to our coastal tuna resources the same conservation and management benefits afforded all other fisheries under the Magnuson Act. In addition to conserving coastal tuna stocks, including tuna under the Act would remove impediments to the conservation of fish routinely taken as a by-catch in the tuna fisheries. And it would in no way hurt, but likely enhance, our posture in negotiations for Atlantic- and Pacific-wide conservation agreements. The House fisheries committee approved a tuna amendment last October, and is sending the bill to the floor on February 6th, where its chances are good. The Senate is still embroiled in debate on a host of Magnuson Act amendments, including tuna inclusion.

For Stripers, A Cautious Start on the Road to Recovery

After five years of strict limits on fishing for coastal striped bass, centered around a moratorium in Chesapeake Bay, 1989 brought the first indication of recovery for the depressed stocks. Fish from the protected 1982 year-class are now plentiful in the bay, and Maryland's summer survey showed they are beginning to spawn. The Atlantic States Marine Fisheries Commission (ASMFC) voted soon after to relax restrictions for the upcoming season, lowering size limits and allowing catches to increase. Concerned that it is too early to safely subject striped bass to increased fishing pressure, the NCMC called on the states to defer action until the results of the 1990 spawning survey are in. The latest information says females may be 8 years old before all have spawned. A Congressional fisheries panel scheduled a hearing for January 31 to review the scientific basis for lifting the moratorium.

TEDs Off Again, On Again

The federal law requiring shrimpers to equip their nets with turtle excluder devices took a roller coaster ride in 1989. First, Congress postponed the TED rule until May. Meanwhile, new studies re-affirmed that TEDs not only save turtles, but reduce fish by-catch and that, with practice, shrimp loss can be minimized. But many shrimpers still refused to accept the devices, and when the law finally took effect, some resisted violently. Gulf shrimpers blockaded harbors and even threatened law enforcement agents with bodily harm. Commerce Secretary Robert Mosbacher suspended the rule for a cooling off period. He re-instated it in September, and though enforcement was tentative, NMFS said compliance was fairly good. Unfortunately, the height of the fishing season had passed without widespread use of TEDs, and the damage was done for another year. The Kemp's Ridley sea turtle, perilously close to extinction, continues to disappear. The NCMC kept attention focused on the billions of fish killed in shrimp trawls, and the pressing need for the government to meet this problem head on.

Planning Ahead to Conserve Bluefish

The bluefish is the most popular game fish on the east coast, and may soon gain the distinction of becoming the first marine fish conserved while

the fishery is still healthy. The Mid-Atlantic Fishery Management Council and the ASMFC completed a state/federal bluefish plan and submitted it to the Secretary of Commerce for approval in 1989. Biologists believe bluefish populations, though abundant, can't be fished any harder without touching off a decline. Recreational fishermen, who account for nearly 90% of the total catch from Maine to Florida, will be limited to 10 blues per fishing day. The commercial fishery, which has the potential to expand quickly and over-exploit the resource, will be limited to no more than 20% of the total annual catch. The NCMC has encouraged the early implementation of a coastwide bluefish conservation program since work began on a federal plan in 1984, and supports the current proposal.

Commercial Longlines Remain Threat to Billfish

Four species of Atlantic billfish enjoyed their first year as protected species in 1989. Commercial possession or sale of blue marlin, white marlin, sailfish and longbill spearfish is prohibited under federal law. But an NCMC review of information available on the amount of fishing effort, by-catch and survival of hooked fish in the tuna longline fisheries suggests that as many as 12,000 billfish may have been killed by commercial fishermen last year despite the new law. In addition to working to amend the Magnuson Act to allow regulation of tuna fishing, the Coalition called for mandatory reporting by tuna fishermen of all by-catch species and new research to modify or replace longline gear in order to reduce or eliminate the wasteful killing of non-target fish.

Drift Nets: US Must Get Its Own House in Order

The battle against drift nets is being waged on two fronts. A year of international outrage culminated in a December United Nations resolution to halt all high seas drift netting by 1992, unless a "scientifically sound" conservation program is developed to control the wanton destruction of marine life. That qualifier is a wild card, but US observers interpret it to put the burden of proof on netting nations, such as Japan, which claims the huge nets are not as damaging as critics say. On the homefront, Congress is moving to pass a ban on large-scale nets, a mostly empty gesture since the smaller nets used by American fishermen do not fit the definition of "large scale." The NCMC is asking that the ban apply to all drift nets, but the authors of the bill, which is an amendment to the Magnuson Act, say fishing gear regulation should be left up to the Regional Councils. Okay. The problem is, every Council proposal to prohibit drift nets has been rejected in Washington. In 1989, the South Atlantic Council prepared to re-submit its request to outlaw the nets in the Atlantic king mackerel fishery, and proposed banning their use under the pending Atlantic swordfish plan. The NCMC is urging NMFS to approve both measures.

Sharks Object of Emergency Action

Work on a fishery management plan for Atlantic sharks accelerated when the Councils asked the Secretary of Commerce to enact emergency measures to protect sharks from overfishing, a request prompted by the heinous practice of finning live sharks at sea. NMFS hastily put together a ban on finning, capped commercial fishing at 1988 levels and recommended a bag limit for sportsmen, putting it out for public comment in November. By one estimate, the directed shark catch doubled in 1989 over 1988. If the emergency plan is implemented by summer 1990, the quota will be exceeded immediately and the fishery shut down for the rest of the year. The NCMC, though applauding the quick response of NMFS, called for additional measures to address the very serious problem of shark by-catch in the

longline and shrimp fisheries, which reportedly exceeds the directed catch. The NCMC will work with the Councils to lower the overall shark quota, feature limits on longlining, and require shrimpers to use the NMFS TED, which is more effective in excluding finfish than other models approved for turtle protection.

Phasing Out Ocean Dumping

The Ocean Dumping Ban Act requires cities to quit dumping sewage sludge and industrial wastes at sea before 1992, and pay increasingly prohibitive fees until they do. The proceeds will fund the study and development of land-based alternatives. Dumpers spent 1989 working to gain approval of their phase-out plans, although not all will meet the deadline. If they can't, they must work out an enforcement and monitoring plan with EPA which, in conjunction with NOAA, is responsible for regulating ocean dumping at the offshore site near New Jersey. An internal review completed last year criticized EPA's past performance, and recommended ways to improve it.

Formerly Fertile Georges Bank Now Yields Empty Nets

Predictions for the future of Georges Bank groundfish have become increasingly bleak. Too many boats spending too much time catching too few fish; things are worse now than when overfishing by foreign fleets led to passage of the 200-mile bill in 1976. The New England Council's multi-species plan has been ineffectual; only recently has the Council begun to come to grips with the depth of the crisis, considering such previously taboo notions as limited entry and gear restrictions. A December report from NMFS added some optimism, but also more urgency, to the situation. NMFS says there is a "bumper crop" of young cod, haddock and flounder now entering the depressed fishery. These small fish must be protected to re-stock Georges Bank. Unfortunately, mortality of juvenile fish in the trawl fishery is notoriously high. Managers will have to find a way to protect under-size fish commonly caught in the same trawl nets as legal-size fish - and that means limiting the use of non-selective trawls.

NOAA Fisheries Gets New Leadership, Same Old Budget

NOAA and NMFS got new faces at the top this past year, and both choices were given high marks by conservationists. John Knauss, a former head of oceanography at Rhode Island University who is known as a policy maker, took over as NOAA administrator. His assistant for fisheries will be William Fox, a former chairman of Florida's Marine Fisheries Commission and the federal Marine Mammal Commission who also served ten years as director of the NMFS southeast fisheries center. Fox is highly regarded as both an administrator and scientist.

They will need to draw on all their talents to lead a fisheries agency with lots of work to do, but little to work with. The FY 1990 budget for NOAA was essentially the same as for 1989, which was the same as the '87 budget.....aside from occasional new money for new legislation, the number of dollars allocated to ocean fisheries today is almost exactly what NOAA started the decade with. The national fisheries budget, in other words, is not keeping pace with the demands of over-exploitation, overcapitalization, pollution and habitat loss, not to mention the initiation of a broad new ecosystems approach to managing living marine resources. In particular, scientific support for management - e.g., assessing resource conditions and the impacts of man's activities, and monitoring the success of conservation programs - desparately needs to be upgraded.

Swordfish Crisis Heads Toward Climax

The swordfish industry has gone to the wall resisting regulation and now finds itself up against it. Years of unrestrained fishing effort has sent Atlantic swordfish stocks into a tailspin. The average size fish landed by the US is less than 50 pounds (dressed weight) compared to 115 pounds in 1978; the adult spawning population has been reduced by nearly two-thirds. A 1989 NMFS stock assessment irrefutably confirmed the sorry state of the fishery, prompting the South Atlantic Council to put together a plan cutting the catch by 78%, to be taken as by-catch in the tuna longline fisheries, where many swordfish boats have been moving anyway.

Predictably, the industry is objecting, arguing that the US should look to international, not domestic, management. But the November ICCAT meeting should have thoroughly trashed that notion. Despite a strong presentation by the US delegation, and a recommendation from its own committee of international scientists, the commission voted no action to limit swordfish harvest in 1990. The NCMC supports the Council position that if anything is to be done in time to rescue the swordfish fishery, the US will have to take the lead. If we wait any longer, there'll be nothing left to save.

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NMFS UNDER THE MICROSCOPE

"The National Marine Fisheries Service (NMFS) is an agency with severe problems and challenges that require immediate attention to ensure the well-being of the nation's marine resources."
— National Fish and Wildlife Foundation

With passage of the Magnuson Fishery Conservation and Management Act in 1976, the National Marine Fisheries Service went from being principally a research and industry-support agency to having broad responsibilities for fisheries management, conservation and enforcement. Other federal statutes passed in the 1970s expanded the purview of NMFS to include protected species (marine mammals and endangered species) and habitat conservation. As part of the National Oceanic and Atmospheric Administration, NMFS is the principal steward of the nation's marine resources.

NMFS is not up to the task, according to a new study by the Washington-based National Fish and Wildlife Foundation. The agency is beset with problems, the most obvious being that its mandated responsibilities have substantially outgrown its resources. The NMFS budget increased by only 20 percent in constant dollars between 1970 and 1990. The number of employees actually decreased by 6 percent during this period. As a result, the agency today is woefully understaffed and underfunded.

NMFS has also had to wrestle with its own demons. The agency's inherent ties to the fishing industry — NMFS was created out of the old Bureau of Commercial Fisheries — and a reluctance to go to bat for conservation, have made it susceptible to political pressure from the industry it regulates. In addition, the Foundation cites a history of poor leadership at the executive level, a lack of strategic planning, and a disorganized research program.

The purpose of the study, "Needs Assessment of the National Marine Fisheries Service," is not to criticize, but to critically evaluate the agency's programs and recommend ways to improve its performance and ability to carry out its mission of conserving fishery resources. It documents the most significant policy, administrative, funding, and staffing needs of the agency, making it required reading for anyone concerned with fisheries management.

"The Foundation's report contains many solid recommendations for improving the efficiency of NMFS," says National Coalition for Marine Conservation president Chris Weld, who assisted in preparing the study. "The Coalition is reviewing these recommendations carefully, and will assist the Foundation in bringing the most vital of these to the attention of the Administration and Congress."

The report offers specific recommendations in each of four major program areas: Fisheries Conservation and Management, Law Enforcement, Protected Species, and Habitat Conservation. Following is a brief synopsis of what the NCMC views as key problems and the Foundation's recommendations:

— Management bodies — both NMFS and the Regional Councils — have repeatedly failed to prevent overfishing leading to stock depletion. Fourteen stocks, species or species groups are considered overexploited; one-third of all species have declined since 1977. NMFS has recently instituted new regulations requiring a definition of overfishing for each fishery and comprehensive annual stock assessments. If these and other changes don't stop overfishing, Congress should amend the Magnuson Act to separate the conservation decision (setting of catch levels) from the allocation decision in the management process. Echoing the NOAA Fishery Management Study of 1986, the Foundation believes this "would produce more conservation benefit for fisheries than any other recommendation in this report."

— By-catch and discard of non-target species is a serious problem that should not be tolerated. Many fishing operations waste more fish than they land because of indiscriminate gear. The total amount discarded is unknown, but is in the billions of pounds a year. NMFS should undertake an assessment of by-catch in all fisheries, conduct basic research into fish behavior to improve fishing strategies, and expand its moribund Conservation Engineering Program to develop fishing technologies to reduce by-catch.

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— Fisheries research priorities are determined more by budget considerations than by strategic planning, resulting in inefficiency and internal competition for scarce research dollars. The agency should develop a well-defined national research strategy designed to obtain the information most needed to support a proactive versus a reactive approach to fisheries management. This would, in turn, make the need for increased funding easier to document.

— Fishermen do not currently pay for the privilege of exploiting a public resource, which makes them an exception in the management of natural resources. An equitable user fee system should be implemented for both commercial and sport fishing sectors, with the financial burden proportional to each group's impact on the fisheries, and revenues to be used to supplement the present NMFS budget.

—The Marine Recreational Fishery Statistics Survey should be enhanced to give NMFS and the Councils a more accurate understanding of the scale and dynamics of sport fishing.

—NMFS law enforcement capability has diminished even as the number of fishery laws increases yearly, to the point where the remote chance of being caught provides scant deterrent to violators. Additional enforcement officers are needed, especially highly trained agents but also others to perform routine inspection and dockside enforcement, with special attention to enforcement of TED regulations on the shrimp fleet.

—Current federal and state laws are not stemming habitat loss. Congress should investigate the problem and devise an effective mechanism for protecting vital habitat areas. For example, through amendments to the Magnuson Act and other statutes, all federal agencies should be required to consider the impacts of their actions on major fisheries and to mitigate the adverse effects as specified by the Secretary of Commerce. NMFS habitat office staff, which must review 10,000 projects each year, should be augmented, and should work closely with the Corps of Engineers to restore degraded habitat.

(For more information, write NFWF, Rm. 2556, 18th & C Streets, NW, Washington, DC 20240.)

FATE OF TUNA AMENDMENT RESTS WITH SENATE

The NCMC continues its efforts to amend the Magnuson Fishery Conservation and Management Act to include tuna and other improvements to the nation's fishery management system. After the House of Representatives passed a set of amendments (H.R. 2061) on February 6th, all attention shifted to the Senate Commerce Committee, which has yet to agree on a package to send to the floor for a vote. The House bill contains a landmark provision to allow the Regional Councils to manage tuna fishing, but in the Senate, tuna is only one of several controversial issues which have committee members searching for compromise. The committee has scheduled hearings on Senate amendments in early May.

Tuna inclusion is inarguably the most important amendment proposed to enhance conservation under the Act, and the NCMC hailed the overwhelming, bipartisan vote in the House as a major victory. But tuna interests, particularly representatives of the high seas fleet, are intent upon stalling any and all Magnuson Act legislation in order to keep tuna fishing unregulated. In addition to tuna, the NCMC has testified in support of amendments to strengthen the Secretary of Commerce's authority to conserve fish habitat, ban drift nets of all sizes in U.S. waters, and address by-catch waste, and is opposing any changes in Council membership criteria which would favor appointment of representatives of one fishing sector over another.

DRIFT NETS BANNED

On March 15th, Secretary of Commerce Robert Mosbacher approved a ban on the use of drift nets in the south Atlantic mackerel fishery. The prohibition is part of Amendment #3 to the Fishery Management Plan for Coastal Migratory Pelagics, which includes king and Spanish mackerel, cero, cobia, dolphin, and little tunny. The amendment also provides for prohibiting the use of run-around gill nets and purse seines to harvest fish from the Atlantic migratory group if and when the South Atlantic and Gulf Councils declare king mackerel overfished and the commercial quota can be taken by traditional gear.

The drift net ban, which may take effect as early as April 1, sets an historic precedent for gear management. Twice before (in 1988 and 1989) the Secretary had rejected similar proposals, on the advice of the National Marine Fisheries Service, which considered the net issue an allocation problem, not a conservation problem. By prohibiting gear in a fishery not declared overfished, the agency has officially recognized that by-catch, waste and impacts on other fishermen associated with drift netting are justifiable reasons for outlawing the gear, a position the NCMC has been arguing all along. This change in attitude at NMFS can largely be attributed to its new director, William Fox, a marine scientist with a strong conservation background.

The NCMC, which is seeking to ban all drift nets in U.S. waters, submitted testimony in support of Amendment #3: "These gear restrictions are sound, biologically and economically, and do not amount to unfair or arbitrary allocation of the resource (prior reasons for rejection). The commercial and recreational fishermen whose interests are being preserved are the traditional users in this fishery, with a long history of providing high quality fish and quality fishing opportunities to the public, without negatively impacting the resource."

GIVE THE BASS A CHANCE

A disturbing pattern is emerging in fishery after recovering fishery. Once depleted, overfished populations are never given the opportunity to rebuild to their former abundance. Managers, bowing to political and economic pressures, increase fishing effort at the first sign of improved spawning or recruitment. Consequently, the young fish are harvested as soon as they return in decent numbers and not enough are allowed to mature and reproduce. This leads to a perpetually anemic fishery, producing far below its biological potential.

The Atlantic bluefin tuna, for example, has been in this condition for well over a decade. Does the same fate now await striped bass, too?

Atlantic coast states will relax restrictions on fishing for striped bass this year. Despite protests from many quarters, that's a *fait accompli*. The Atlantic States Marine Fisheries Commission (ASMFC), responsible for the interstate management plan, has given the go ahead to lower minimum size limits and increase commercial fishing effort along the coast. Most significantly, the Chesapeake Bay moratorium, in effect since 1984 and the backbone of the striper recovery effort, will be lifted.

The NCMC believes the risks of the ASMFC action far outweigh any benefit. Striped bass have been the object of one of the most intensive conservation efforts in the history of marine fish management. It is unwise, to say the least, to gamble the nation's substantial investment in the future of striped bass for the relatively small economic gains that will accrue from re-opening the fishery in 1990.

Beginning in the 1970s, striped bass reproduction from Chesapeake Bay, where most of the east coast migratory stock originates, dwindled to almost nothing, the victim of overfishing and habitat degradation. The species virtually disappeared from coastal waters where it was once plentiful. For more than a decade, federal and state agencies have pumped millions of dollars into research, management and enforcement, trying to restore the population to a healthy state. Fishermen from Maine to North Carolina have sacrified under the strictest of fishing limits. Coastal economies have done without the hundreds of millions of dollars in business the popular game and food fish traditionally generated.

The interstate program to rescue the depressed Atlantic fishery was designed to build a healthy spawning stock which would produce a dominant year class upon which to rebuild the fishery. The bay's current spawning population is made up primarily of fish from the class of 1982, which has been protected into sexual maturity by the bay-wide moratorium and an ascending scale of minimum size limits coastwide, reaching 36 inches in 1989.

To lift the moratorium, managers looked for three years of above-average spawning in Chesapeake Bay, as measured by Maryland's annual "young-of-the-year" index (an index of 8.0 is considered average). After two more routinely dismal seasons in 1987 and 1988, last summer's survey indicated the first significant spawn in the bay since the recovery program began more than ten years ago. On the basis of the 1989 index alone (25.0, high enough to mathematically produce a three-year average of 8.0, irrespective of the previous two years of below-average production), the ASMFC voted to allow each coastal state to increase fishing to 20 percent of the historic catch rate in the 1970s, when the fishery was healthy.

The results of the '89 survey have been roundly criticized, by the NCMC and others, as skewed upward by a few extraordinarily high test samplings among many average and below-average samplings throughout the bay. Such criticism, however, is not a challenge to the survey itself, which has been the key indicator of striped bass spawning success since 1958, but rather to how it's being interpreted. As the ASMFC points out, anomalies have occurred in the past, and variability from year to year is to be expected. But in our opinion, that argues against lifting restrictions based on the results of a single survey. If last year's spawning was not as good as the index would indicate, the big step forward the ASMFC thinks the recovery program has taken could turn out to be two steps backward.

The NCMC joined with other groups and a majority of fishermen on the east coast in urging the states to maintain current regulations at least through 1990, preferably 1991. The House Fish and Wildlife Subcommittee responded to these concerns — and the national interest in the return of striped bass — with a Congressional hearing in late January. The panel found that the states were acting within the dictates of the interstate plan, but chairman Gerry Studds (MA), author of the Atlantic Striped Bass Conservation Act which has enforced coastwide compliance with the plan since 1984, expressed his strong misgivings about relaxing restrictions at this time.

Focusing now on the new striped bass management plan, which will set the course for the next few years, the NCMC is asking the ASMFC to include a safety mechanism that would trigger a tightening of restrictions or a closing of the fishery, if conditions merit. Under present rules, the high numbers from the 1989 index will keep the fishery open at least until 1992, even if 1990 and 1991 prove to be disastrous spawning years. It is unthinkable that the same flaw in the interstate plan that has allowed re-opening the fishery too soon could prevent a quick reversal of that action if it proves to be a mistake. If the Atlantic states do not proceed with the utmost caution (and that includes careful monitoring and enforcement of new regulations), the NCMC will seek federal intervention to impose a more conservative management program.

"ENVIRONMENTAL PRESIDENT" BACKSLIDES ON WETLANDS PROTECTION

An agreement between the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers, touted as a cornerstone of President Bush's "no net loss" policy to protect wetlands, was significantly weakened when the White House buckled under to pressure from development interests. The final version of the agreement, meant to clarify the manner in which developers would be required to mitigate damage to wetlands, contains loopholes which detract from the President's avowed no net loss goal.

The continuing loss of salt marsh wetlands is a grave threat to coastal fish stocks, which use them for spawning and nursery grounds. The EPA/Corps agreement requires that those seeking permits to develop wetlands must select the least environmentally damaging site, keep damage to a minimum, and agree to restore wetland losses. But last minute changes give the agencies authority to waive these requirements under a variety of conditions. The NCMC and other members of F.I.S.H. (Fishermen Involved in Saving Habitat) have issued a challenge to the President to back up his campaign promise to be the environmental president with tougher action. If the President chooses not to exert leadership on wetlands protection, Congress may step into the breach. Legislation to implement the no net loss policy has already been drafted.

NO PAIN, NO GAIN

With the South Atlantic Council's decision on March 28th to delay action on the swordfish plan for an indefinite period, U.S. fishery management plunged to a new low. This failure to act carries implications that go far beyond swordfish.

The Magnuson Act clearly requires the Councils to prepare, and the Secretary of Commerce to implement, measures to prevent overfishing or to rebuild overfished stocks, using the best scientific information available. It should, then, be inconceivable that a stock could be overfished to the point of near collapse over the course of a decade with absolutely no action taken. Yet the unwillingness, or inability, of fishery managers to impose regulations on a fishing industry that vehemently opposes them, even though the future of the resource is at stake, has never been more clearly demonstrated than in the case of swordfish.

Swordfish populations have been so severely depleted that drastic catch reductions are necessary to rebuild the spawning stock within a reasonable period of time and remove the risk of recruitment failure and stock collapse. The fishermen still active in the troubled fishery oppose the plan, arguing that it will inflict undue economic hardship. In the face of intense political pressure, eroding support from its fellow Atlantic councils, and eleventh-hour challenges on legal and scientific grounds, the South Atlantic Council decided to withhold action, apparently to survey the political landscape and review its options.

Since work on the swordfish plan began in earnest in 1980, nothing has been done to halt overfishing. Short-term profits have had precedence over the health of the resource from the beginning. In our view, continuing to allow uncontrolled exploitation of swordfish is in direct violation of the law. The Act's requirement that managers include social and economic in addition to biological considerations in managing fisheries ("optimum yield") most definitely does not mean that such considerations permit an industry to overfish a stock and then be exempt from measures needed to repair the damage.

At issue is not just the fate of swordfish, but of the Magnuson Act itself. If we allow any stock to be severely overfished with the excuse that to stop it will cause short-term losses, there is absolutely no disincentive to overfish. By definition, there can be no conservation without sacrifice. We condemn all of our fisheries to a depleted condition, unless we accept that conservation is not an unaffordable luxury, or even a necessary evil, but simply the only way we have to assure the long-term availability of fish for the nation.

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CHALLENGE TO BILLFISH PLAN SPAWNS LANDMARK DECISION

On March 12, Judge Charles Richey of U.S. District Court in Washington ruled that the federal management plan for Atlantic billfishes, which outlaws the sale, import and possession of marlin and sailfish by commercial fishermen, is in complete accord with the principles and objectives of the Magnuson Fishery Conservation and Management Act. This long-awaited decision is a triumph not just for billfish conservation and recreational fishing, but for the cause of fisheries management in general.

The National Fisheries Institute (NFI), representing commercial fishing interests, sued the Secretary of Commerce shortly after the billfish plan was implemented in October 1988, on the grounds that its no-sale provision unfairly restricts commerce and is unnecessary to conserve billfish. NFI also argued that preventing the import for sale of fish caught outside the U.S. zone exceeds the authority granted the Regional Fishery Management Councils by Congress. Judge Richey rejected NFI's challenge, and in doing so set legal precedents which may benefit fisheries conservation far beyond approving game fish status for billfish, the aspect of the law which has drawn the most attention.

The federal court's decision affirms two basic principles of management under the Magnuson Act: 1) The Councils are empowered to propose measures based on the best scientific or other information available, no matter how incomplete it may be; and 2) It is the Councils' prerogative to determine what regulations are necessary for the conservation of a species under their jurisdiction. To that end, according to the court, they may propose, and the Secretary may approve, a range of management measures, up to and including a ban on the sale and/or harvest of that species. The Councils may also determine how the fish are to be harvested (allowable types of gear) and by whom, if they conclude it provides "the greatest overall benefit to the Nation."

One basis for NFI's lawsuit was the oft-heard objection that restrictive regulations are unjustified without conclusive scientific evidence of a direct threat to the resource. Judge Richey answered: "The Magnuson Act does not force the Secretary and the Councils to sit idly by, powerless to conserve and manage a fishery resource because they are somewhat uncertain about the accuracy of relevant information." In other words, managers needn't have unassailable proof that a resource is in imminent danger before taking action to protect it. Conservationists couldn't have asked for a clearer endorsement of pro-active management, giving the benefit of doubt to the long-term health of the resource.

Since its enactment, commercial interests have claimed the purpose of the Atlantic billfish plan is merely to allocate marlin and sailfish for the exclusive use of sport fishermen. But the Councils, backed by the NCMC and others, maintained from the beginning that the plan has conservation as its primary goal. The Richey decision bears this out.

The rising by-catch of billfish in the expanding longline fisheries, when coupled with a growing market for those fish on the mainland U.S., posed a severe threat to the condition of the stocks, offsetting the efforts of thousands of anglers to conserve these fish by releasing them alive. Indeed, the longline by-catch fishery took on all the characteristics of a directed commercial fishery for billfish. But without the authority to impose catch limits on tuna fishermen, or close areas and seasons to longlining, the Councils concluded that a prohibition on the sale of fish was the most effective, if not only, way to prevent overfishing.

By outlawing sale and possession, the Councils exercised their prerogative, as well as their responsibility, under the Magnuson Act to conserve billfish. By upholding the Atlantic billfish plan, the U.S. District Court has paved the way for the preparation and approval of conservative management plans for other fisheries, too.

FOR BLUEFISH, AN OUNCE OF PREVENTION

The old adage, "an ounce of prevention is worth a pound of cure," applies to conserving fish as well as to any of man's pursuits. Quite simply, the problem we avert today is one less we'll have to grapple with tomorrow. That's the thinking behind the new state/federal regulations to conserve bluefish, approved by the National Marine Fisheries Service (NMFS) on March 20. The Bluefish Fishery Management Plan imposes a 10 fish daily limit on anglers from Florida to Maine and restricts commercial fishermen to no more than 20% of the previous year's total catch.

The bluefish plan breaks new ground in several areas. For one thing, a conservation program to protect a species before it is depleted is decidedly the exception rather than the rule in fisheries management. Bluefish stocks on the east coast are in relatively good shape, and the point is to keep things that way. The plan also allocates the resource between recreational and commercial fishermen, acknowledging the traditional importance of the fishery to sportsmen and the potential for overexploitation by an expanded commercial net fishery. Thirdly, because bluefish migrate extensively between state and federal waters, the plan represents a joint effort by the Mid-Atlantic Council (in conjunction with New England and South Atlantic) and the states, cooperating through the Atlantic States Marine Fisheries Commission.

Some anglers and fishing organizations have objected to either the recreational bag limit, the 20% allocation to com-

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mercial fishermen, or both. Protests that the bag limit is unnecessary, even if coming from only a minority of fishermen, smack of the same unwillingness to sacrifice in the name of conservation the commercial industry is always being criticized for. Objections to allocating a fifth of the catch for commercial fishermen, on the other hand, are legitimate — the NCMC recommended a ceiling of 15% (commercial fishermen landed about 12% of the 124 million pounds caught in 1987). Nevertheless, the industry does have the capability to catch and sell many times that number should they devise a way to preserve bluefish for mass marketing, so a cap of 20% will prevent expansion to any significant degree.

Given the supreme importance of the bluefish resource to recreational fishing on the east coat — it provides the most consistent fishing opportunity and some of the most exciting fishing for millions of anglers — and the rarity of efforts such as this to preserve a resource in abundance, implementation of the bluefish plan is something to celebrate.

MAKING THE MAGNUSON ACT WORK AS CONGRESS INTENDED

Legislation to re-authorize the Magnuson Act through 1993 is currently being debated in Congress. The NCMC, in addition to seeking amendments to improve management of tuna and other pelagics, ban drift nets, and preserve coastal habitat, is working with Congress to identify and emend shortcomings in the Act or its implementation. The following article discusses two basic problems, overcrowded fisheries and defining overfishing.

Mounting concern in the 1970s over heavy fishing offshore, primarily by foreign fleets, led to the adoption of the Magnuson Fishery Conservation and Management Act of 1976, extending federal jurisdiction over foreign and American fishermen (with the exception of tuna fishermen) operating within 200 miles of shore. As we enter the 1990s, foreign fishing in the U.S. zone is minimal. Heavy fishing offshore continues, though, and so does concern for the future of the nation's fisheries.

The Magnuson Act created eight Regional Fishery Management Councils and charged them with preparing fishery management plans, pursuant to which the National Marine Fisheries Service must regulate the fisheries. The Councils, however, are not true regulatory agents. The plans, and the regulations required to carry them out, are subject to approval by NMFS, acting on behalf of the Secretary of Commerce, and according to seven National Standards contained in the Act. On the other hand, the Councils' responsibilities extend far beyond those of mere advisory bodies, because only they can decide the manner in which a fishery will be managed.

The Councils are composed of federal, state and private sector members. While private sector members include conservationists, consumer representatives, economists and university professors, for the most part they are drawn from among the two principal users of the resource: commercial and recreational fishermen. Too often, fishermen serving on the Councils view themselves as representatives of their particular user group, and act accordingly, though a growing number do follow the intent of the law and represent the best interests of the resource.

14 Years Later, Overfishing Continues

Although thirty fishery management plans are currently in effect, the stocks subject to these plans have in many instances continued to decline. NMFS scientists consider fourteen species, stocks or species groups overfished. Ten of those species, including red drum and Pacific Ocean perch, are so depleted that it would take an estimated 5 to 20 years to rebuild them if all fishing ceased today. Nine overexploited fisheries have experienced continuous population declines since the Magnuson Act went into effect. They are: New England groundfish (cod, haddock, flounder); Atlantic salmon; the snapper-grouper complex of the South Atlantic; Atlantic swordfish; Caribbean shallow water reef fish; king mackerel; Spanish mackerel (Atlantic and Gulf of Mexico stocks); and main Hawaiian Islands bottom fish. (Source: National Fish and Wildlife Foundation, 1990)

The Magnuson Act calls for NMFS and the Councils to manage U.S. fishery resources so as to "prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery" (National Standard #1). If overfishing continues at such an alarming rate, then obviously the Magnuson Act isn't working as Congress intended. The question is, What needs to be fixed?

Too Many Fishermen, Not Enough Fish

Many of the problems stem not from flaws in the Act, but from politics and self-interest interfering in the decision-making process. Despite a mandate to prevent overfishing, a fishery is usually identified as needing conservation and management after it has become overexploited — sometimes after it has been overfished for many years. The signs of trouble are unmistakable and known to exist long before the participants in the fishery are willing to admit there's a problem. Excuses are offered and scapegoats eagerly sought (foreign fishing outside our zone, poor data, pollution, etc.), but the cause is nearly always the same: too many boats and too much gear.

In 1986, the most recent year for which complete data are available, an estimated 247,000 persons were engaged in commercial fishing on a full-time basis, using approximately 128,200 fishing boats. This contrasts with 140,538 persons and 87,161 vessels in 1970. No data exist comparing the fishing capacity of the boats used in 1970 with those in the fishery today, but it is known that tremendous improvements in electronics, fishing gear and methodology have made today's boats a great deal more efficient.

If overfishing is the result of too many vessels engaged in a fishery, the cure must be to reduce the number of boats to a level that the resource can support. Unfortunately, this is a bullet that until recently the Councils have been reluctant to bite. Limited entry, controlled access, or whatever you wish to call it is not a politically popular notion. Even setting total catch limits or quotas for a fishery is often a last resort.

Typical Management Strategies Ineffective

The impact of boats and gear in a fishery is referred to as fishing effort, and most management plans are aimed at reducing effort or retargeting it in some manner thought to be beneficial to the resource. For example, the New England groundfish plan relies mostly on seasonal area closures and the regulation of net mesh size. Supposedly, if fishermen trawled with only large mesh nets, small fish would pass through them and live to become spawners. Unfortunately, this regulation is easy to circumvent and difficult to enforce. But even if compliance was the rule rather than the exception, it is doubtful that many small fish would be spared, because as the cod end of the net fills, the mesh is blocked and not even the smallest fish will escape.

Other plans impose minimum size limits, prohibiting the landing of fish below a certain size. Again, the purpose of the regulation is to motivate fishermen to avoid catching smaller fish so that they may mature and replenish the spawning stock. In practice, however, fishermen continue to catch small fish which they dump over the side until they have caught enough

legal size fish to "make a trip." It is unclear whether minimum size regulations benefit the resource, and many fishermen complain about the waste of the discards, claiming that because the fish will die anyway, they ought to be allowed to land them.

Though many of the regulations devised by the Councils to reduce fishing effort are either inadequate or, in many instances, not adequately enforced, most measures are difficult to implement in the first place because they are vigorously opposed, even by fishermen who admit that a fishery is badly overexploited. Since regulations that reduce effort reduce revenue, most fishermen are unwilling to forego profits today for the promise of more income at some unascertainable time in the future. Accordingly, when a Council proposes regulations that are likely to lead to a significant reduction of effort the fishermen cry "foul!". Too often, the cry is heeded by politicians who wish to be seen riding to the rescue. That the "rescue" will inevitably lead to more overfishing and a greater loss of income down the road is usually overlooked.

What Is Overfishing?

A critical weakness in the Magnuson Act makes it easier for the Councils to duck the hard choices. Although the Act directs the Councils to prevent overfishing, no definition of the term was included, and the guidelines prepared by NMFS to help the Councils interpret the Act were so vague on this point as to be quite useless. In the absence of a defined term, overfishing means whatever the Councils want it to mean, and short of permitting a total resource catastrophy, the Councils could permit whatever level of fishing they chose — even in the case of severely depleted resources. By approving weak or inadequate plans, NMFS shares the blame.

In choosing "optimum sustainable yield" as the standard by which Councils are to manage fisheries, Congress further undermined its own mandate to conserve ocean resources. As defined in the Magnuson Act, optimum yield means "the maximum sustainable yield of a fishery, modified by any relevant economic, social or ecological factor." At the time the Act was being drafted, conservationists persuaded themselves that since ecological considerations would induce the Councils to set allowable catches at less than maximum sustainable yield (the largest number of fish that can be taken annually over a period of years), optimum yield was the right choice. At it turned out, the Councils are generally more concerned with the socio-economic effects of management than they are with ecological considerations, and allowable catches have been frequently set at levels exceeding maximum sustainable yield.

New NMFS Guidelines

In 1989, NMFS took action to cure this critical flaw in the Act. Finding it impossible to craft a definition of overfishing that was appropriate to every fishery, NMFS recently amended its guidelines for interpreting the National Standards to require that the Councils define overfishing for each fishery under management, in a manner that is acceptable to NMFS and clearly ascertainable. Then, when a state of overfishing is perceived to exist, the Council must implement a program to protect the stocks. Thus, for the first time, the Councils may be held to a standard that will force them to take action with respect to overexploited fisheries.

In most cases, rebuilding stocks is going to require strong measures, such as area and season closures, strict quotas and, in some cases, a complete cessation of fishing. Predictably, there will be loud cries of distress from the industry, and politicians will again be urged to intervene. Whether or not NMFS is deterred in its newfound resolve to cure overexploitation, ultimately the price for overfishing will have to be paid. Fishing effort will have to be drastically reduced and fishermen will be forced out of business. The longer the delay in making the tough decisions as to when and how this will be done, the greater the number of fishermen who will suffer. The focus of politicians who wish to help the commercial fishing industry, therefore, should be to assure that the choices made are timely and effective.

The task will not be made easier by amendments to the Magnuson Act pending in Congress which emphasize the need to be sensitive to the economic impacts of management regulations and encourage the appointment of more commercial fishermen to the Councils. The new NMFS guidelines on overfishing should be given a chance to work with the understanding that, for the reasons already mentioned, there will be a chorus of discontent. Nevertheless, the only way "to promote domestic commercial and recreational fishing under sound management principles," an expressed purpose of the Act, is to rebuild stocks to levels that will support profitable fisheries for the greatest number of fishermen. Continuous fishing at current levels will cause the collapse of one fishery after another with calamitous results for all fishermen.

COASTAL DEFENSE INITIATIVE

Sweeping environmental legislation designed to reduce the "poisoning" of America's coastal waters cleared Congressional subcommittees on fisheries and oceanography in April. The "Coastal Defense Initiative (CDI)," sponsored by Rep Gerry Studds (MA), would set higher federal standards for water quality, levy a fee on industrial discharges into marine areas, require statewide plans to cope with urban run-off and other non-point pollution, and impose tougher penalties for those violating federal water quality standards.

Studds is hopeful CDI, which he calls "the most important coastal water quality initiative since enactment of the federal Clean Water Act two decades ago," will pass Congress by the end of this year. The next step on the long road to enactment, however, is approval by the full House Merchant Marine and Fisheries Committee. The NCMC has written committee chairman Walter Jones (NC) in support of the bill, referring to the committee's own 1988 report, "Coastal Waters in Jeopardy," which warns that continued pollution and destruction of coastal habitat is undermining the foundation of our commercial and recreational fisheries.

SHRIMP BY-CATCH ISSUE HEATS UP IN GULF OF MEXICO

Red snapper in the Gulf of Mexico have been so severely overfished that catches should be cut drastically — up to 75% across the board, a special reef fish review panel told the Gulf Fishery Management Council at its April meeting. But because the by-catch of red snapper in the shrimp trawl fishery is so high and will probably remain unregulated for the foreseeable future, the scientists advised the Council that in order to rebuild the snapper population, the directed commercial and recreational fisheries would have to be closed down completely until the year 2000.

The federal Reef Fish Management Plan is emerging as the entry point for addressing the formidable problem of shrimp by-catch and the devastating impact it is having on other fisheries. The red snapper situation illustrates the dilemma for managers. An estimated 4.5 to 10.8 million pounds of red snapper (experts say the higher number is closer to the mark), primarily fish in their first year of life, are killed by Gulf shrimpers yearly. Because the federal Shrimp Management Plan does not contain provisions for reducing the by-catch of red snapper, or any other by-catch species, the Council's options for effectively managing the fishery are reduced to one

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— closing the directed fishery.

The magnitude of the by-catch in shrimp trawls, which scoop up virtually everything in their paths, has been well known for years. The millions of red snapper killed are only a small fraction of the total finfish by-catch. But now, as fish populations decline and catches are regulated, the need to do something to reduce the by-catch is pressing. Not only does indiscriminate trawling contribute significantly to the overexploitation of fish stocks, it also limits the options of managers trying to rebuild them. If shrimping remains uncontrolled, other commercial and recreational fishermen will have to bear the entirety of the sacrifice for conservation.

Even if new federal laws requiring TEDs (devices to exclude turtles from shrimp nets) are complied with, it will only put a small dent in the problem. Most approved TEDs are designed to save large turtles, not juvenile fish. The model developed by NMFS can be rigged to reduce the catch of fish by 50 to 70%, but it's not widely used. Clearly, to solve the by-catch problem, the Councils and NMFS must initiate laws requiring all shrimpers to use trawling efficiency devices.

COSTS AND BENEFITS

The federal budget for marine fisheries programs has risen only slightly since the National Marine Fisheries Service was founded in 1970, and not at all in the last ten years (accounting for inflation). The agency would be even worse off if Congress had not rejected eight consecutive Reagan budgets aimed at cutting fisheries by nearly half — as if the money spent to conserve ocean resources (approximately $180 million) amounts to more than a drop in the sea of red ink flooding Washington. George Bush, too, deserves faint praise for his attention to marine fisheries; he has not sought the disabling cuts his predecessor did, but neither has he proposed any substantive additions to the agency's budget.

The National Coalition for Marine Conservation supports a significant increase in NMFS funding, for Information Collection and Analysis, and Conservation and Management Operations. In our view, if the nation is going to intensively harvest fishery resources, we must invest in a level of management sophisticated and reliable enough to sustain them. If the nation doesn't want to make that investment, let's say so and manage accordingly. We can't have it both ways. Yet that's what the Administration and Congress, by continually adding to the agency's responsibilities but not its funding base, seem to want.

The intensive harvest of marine resources by ever larger numbers of fishermen using increasingly efficient gear, combined with the rapid destruction of coastal habitat, demands equally intensive management. That means a substantial commitment in dollars and manpower for research, regulation, monitoring and enforcement. The alternative is substandard management allowing and invariably leading to overexploitation, stock depletion, low yields, lost revenues and lost opportunities, plus the perpetual cost to the taxpayer of stock rebuilding programs.

If we are not willing to make the commitment to fund effective management (and that includes fishermen paying for the privilege of fishing), and presuming that we are also not inclined to expose our fishery resources to the risk of depletion, then we are left with just one option. That option is to restrict fishing to only the most conservative or inefficient gear and methods — e.g., rod and reel, handline and harpoons — where the risk of overexploitation is minimal. With low risk comes low costs for research, regulation and enforcement. Ultimately, opportunities for individual participation in the fisheries would be enhanced, because the stocks would be maintained in abundance and no single entity could dominate the catch at the expense of others.

Fishermen, it's been said, are being ruined by their own efficiency. By promoting full exploitation without providing the means to properly conserve and manage ocean resources, the federal government is actually hurrying them down the road to ruin. Conservation implies the wise use of natural resources; where is the wisdom in that?

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SHRIMPERS FACE CRACKDOWN ON BYCATCH

Fish As Well As Turtles Are At Issue

With release of the long-awaited National Research Council (NRC) report on the decline of sea turtles, with its finding that unmodified shrimp trawls are the number one threat to the survival of the endangered reptiles, the shrimp trawl fishery is locked into the use of TEDs. Now, measures being considered by federal fishery managers to conserve reef fish in the Gulf of Mexico could require shrimpers to equip their nets with devices proven to exclude not just turtles, but fish, too.

The one-year NRC study was mandated by 1988 amendments to the federal Endangered Species Act to review the causes of sea turtle mortality, including trawling, and to assess the need for and effectiveness of regulations requiring TEDs, or trawling efficiency devices. This independent review came at the behest of Congressmen concerned about the impact of turtle conservation on the southern commercial shrimping industry. The report concludes that trawling for shrimp is the major cause of turtle deaths, more than all other human activities combined, and recommends "the mandatory use of turtle excluder devices at most places at most times of the year," from North Carolina to Texas. In effect, it leaves the industry with no scientific basis for resisting the use of TEDs.

Shrimpers, particularly in the Gulf, had claimed their role in the disappearance of sea turtles was greatly exaggerated. But they have also as much as declared that, even if they are responsible, their livelihood is more important than the fate of a few species of turtles. They view the Endangered Species Act as anti-fishing. Actually, the main reason the Act has intruded into the lives of shrimpers is because they've been largely immune from laws to conserve fish. Shrimp trawls are probably the least efficient fishing gear known to man. Billions of finfish — croaker, spot, seatrout, snapper, mackerel, red drum — are killed and discarded by indiscriminate trawling for shrimp each year. This problem has never been addressed under U.S. fishing law.

But that's about to change. On July 19, the Gulf of Mexico Fishery Management Council proposed new regulations to conserve red snapper. Under the Council's plan, the directed commercial harvest would be cut from 3.1 million to 1 million pounds a year, and the limit for recreational anglers would be lowered from 7 fish a day to 2 fish. In addition, the Council is proposing restrictions on shrimp trawling to reduce the bycatch of juvenile snappers, which the National Marine Fisheries Service (NMFS) estimates at 12 million fish killed annually. These include closing Gulf waters to shrimping from May 1 to July 31 starting next year and requiring trawl gear modifications by 1993.

The latest stock assessment supports these stringent measures, which are intended to decrease fishing mortality about 60% across the board. "Red snapper are severely overfished in the Gulf of Mexico," says the Council, "and the spawning stock is so reduced that the population may either be in a state of collapse or dangerously close to collapse." Shrimpers are the single largest harvesters of red snapper, although the small fish they net are discarded as "trash." In order to rebuild the population by the year 2000, or at all, managers have determined that direct action must be taken to cut the shrimp bycatch substantially. NOAA Legal Counsel has granted the Council authority to regulate shrimping through the Reef Fish Fishery Management Plan if it is considered necessary to prevent overfishing. It is clearly necessary.

The National Coalition for Marine Conservation (NCMC) supports the conservation measures proposed by the Gulf Council, as they apply to both the snapper and shrimp trawl fisheries. However, we are recommending that shrimpers be required to use TEDs that will reduce the fish bycatch by at least 50% as early as 1991. The NMFS TED, for example, has proven to exclude fish by up to 70%, although the agency points out the device has not been tested specifically for red snapper. NMFS plans to conduct more reserach into adapting existing devices to exclude fish, as well as to explore new gear or methods to reduce the bycatch with the least reduction in shrimp catch.

Although the red snapper issue has emerged as the vehicle for tackling the shrimp trawl bycatch problem, these fish are only a small portion of the total bycatch, and they are not the only species being overfished or under tight regulation. In our view, it is not necessary to await the results of more tests before requiring gear modifications. The technology already exists to reduce bycatch and should be employed as soon as possible. Altering shrimp trawls to exclude finfish would have a far-reaching benefit, for the fishermen as well as the fish of the Gulf and South Atlantic regions.

CONGRESS SPLIT ON CHANGES TO MAGNUSON ACT

In July 1989, the House and Senate held hearings on the Magnuson Fishery Conservation and Management Act, kicking off a year of debate over how to improve the effectiveness of the law regulating ocean fishing in federal waters (3-200 miles from shore). By far the most contentious issue in this debate has been management of tuna and other large

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pelagic fish — or rather the lack of management under the law as it stands. When Congress recessed for the summer on August 4, the question of whether or not the United States would include tuna under the law seemed to be settled. But *how* tuna would be managed, and by *whom,* is still uncertain.

The House bill is straightforward, while the Senate version tries to go in two directions at the same time. H.R. 2061, approved by the House on February 6, simply repeals the onerous exclusion for tuna, a change targeted by the National Coalition for Marine Conservation as the most critical improvement Congress can make. Uncontrolled fishing is rapidly depleting tuna stocks. Refusing to regulate tuna fishing has also led to serious overfishing of swordfish, sharks and marlins. These fish are frequently caught on tuna longlines, a gear which does not discriminate among large pelagics.

The overwhelming vote to include tuna in the House (396-21) gave momentum to the cause in the Senate, which until then had been predisposed to renew the Act with as few substantive amendments as possible. Senator Daniel Inouye (HI) sponsored tuna inclusion in the Commerce Committee, which has jurisdiction over marine fisheries legislation. It was approved by the Committee on May 22 by a vote of 11 to 8. But Senator John Kerry (MA), on behalf of commercial fishing interests, successfully added two stipulations which, if they remain in the bill, could negate the benefits of tuna inclusion and compromise efforts to conserve other pelagics, too. The full Senate is expected to vote on the bill, S. 1025, in September.

Whereas the House bill extends the authority of the Regional Fishery Management Councils to cover all fish, including tuna, the Senate bill would deny the five Atlantic Councils participation in the management process, giving authority over tuna and the other large pelagics to the Secretary of Commerce instead. To make matters worse, the Secretary would not be able to enact regulations stricter than those recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT).

"These two provisions are totally unacceptable," says NCMC executive director Ken Hinman. "First of all, requiring that quotas and allocations adopted by ICCAT, which has a very poor record of conservation, supersede those recommended by U.S. managers defeats the purpose of including tuna under the Act. Secondly, to centralize authority over all large pelagics within the Commerce Department, which afterall has a history of blocking Council efforts to conserve these fish, runs counter to the principles of the Magnuson Act. It would enhance the power of special interest lobbyists in Washington at the expense of regional and public involvement in the regulation of these fisheries. Indeed, it could start us on a slippery slope leading to the further dismantling of the Council system."

As it has since presenting testimony at Congressional hearings on the Magnuson Act over a year ago, the NCMC supports a straight repeal of the tuna exclusion and broadening of the authority of the Regional Councils to include tunas, as contained in H.R. 2061. The Coalition is asking Congressional leaders to ensure that tuna language in the House bill prevails over the Senate amendments when the differences in the two bills are reconciled this fall.

OCEAN DUMPING DEADLINE UNDER FIRE

Two years ago Congress set December 31, 1991 as the target date for finally bringing offshore dumping to an end. Fishermen and conservationists backed the Ocean Dumping Ban Act of 1988 to protect marine life from sewage sludge and industrial wastes being deposited at sea. The massive fish kills and beach closings of that memorable summer, along with increasingly frequent reports from fishermen of diseased fish and declining catches on prime fishing grounds, helped convince Congress to pass the legislation without dissent. The 1988 law is intended to phase-out dumping within three years, using an ascending scale of fees and fines levied on dumpers, who must either quit before 1992 or get an extended phase-out plan approved by the Environmental Protection Agency and pay heavily for the privilege.

The end for the at-sea disposal of harmful wastes has been a long time coming. The Ocean Dumping Act Amendments of 1977 asked cities to cease dumping sewage sludge (the by-product of municipal waste treatment plants) which "unreasonably degrades" the ocean environment by 1981, and nearly all of them did — except for New York City and several neighboring communities. By challenging the law in court, they managed to get the original cut-off date postponed. With the latest deadline approaching, they're at it again.

New York, the biggest offender (over 7 million wet tons dumped each year at the federal 106 Mile Site east of New Jersey), evidently can't say no. Rep. Norman Lent (NY) has introduced a bill (H.R. 4876) to amend the Ocean Dumping Ban Act to delay the effective date of the prohibition on dumping sewage sludge. The intent of his bill is to allow dumping to continue past the deadline without incurring the exorbitant fines required under the existing law.

The National Coalition for Marine Conservation is adamantly opposed to the Lent bill, or any similar attempt to weaken the nation's commitment to end ocean dumping once and for all. The present law is flexible enough in that it allows dumpers to go past the deadline, but punishes them for it. Deadlines must be enforced with stiff penalties, except under extraordinary circumstances, or else there is no incentive to meet them. New York has had more than ample time to develop land-based alternatives to fouling our coastal waters and fishing grounds. To make an exception now would send a message that the law is a joke, and open the door for others to renege on their agreed upon timetables to cease ocean dumping.

SHARK CONSERVATION DELAYED

Regulations prepared by the National Marine Fisheries Service to protect Atlantic populations of sharks from overfishing have been temporarily withdrawn. The NMFS shark plan, featuring a ban on the cruel and wasteful practice of finning and limits on commercial and recreational fishing, was originally scheduled to become law this summer. But the agency announced the rules are being reviewed and rewritten, and will probably not go into effect until sometime next year. Meanwhile, sharks continue to be killed in alarming numbers, increasing the danger that these storied predators will succumb to intensive predation by man.

The focus of the NMFS review is the plan's definition of overfishing. When it was first introduced last fall, conservationists criticized the plan because it describes shark populations as being overfished, but then proceeds to cap commercial fishing effort at recent high levels (while cutting the sport catch by 37%). Landings by the directed commercial fishery soared from 969 tons in 1985 to over 7,000 tons in 1989. Without emergency regulation, landings will probably surpass 10,000 tons this year.

The draft plan would allow a 5,800 ton quota for the commercial fishery (the 1988 level) and require anglers to release

all but two fish per vessel per day. Yet the bycatch and discard of sharks in other fisheries is thought to exceed commercial and recreational landings. The catch in the longline and trawl fisheries is extremely high, and large numbers of sharks are reportedly being caught in the northeast drift gillnet fishery for swordfish. The plan features no restraints on bycatch.

Notwithstanding the immediate need to prohibit finning and prevent fishing pressure from increasing even further, the plan clearly violates the agency's own 1989 Guidelines for Fishery Management Plans (Section 602) by allowing overfishing to continue. Since commercial shark fishermen have lobbied against the plan, conservationists will be watching to make sure the quota is altered to meet the definition of overfishing, and not the other way around.

Sharks have almost no natural predators, and for that reason evolved into long-lived creatures. Most species have few young, and they take at least 10 years to mature. Sharks are extremely vulnerable to overfishing and once wiped out, could take decades to return. The National Coalition for Marine Conservation is urging the Secretary of Commerce to take immediate action to prohibit the finning of sharks at sea, close the commercial fishery for the remainder of 1990, and restrict recreational anglers to one shark landed a day. The Secretary has authority to issue an emergency rule for 90 days, and can extend it another three months with permission of the Regional Councils.

THE FIFTY PERCENT SOLUTION

The traditional New England fisheries for cod, haddock and flounder are ailing, and prescriptions to revive them are coming from every quarter. In the past year, we've heard suggestions as diverse as limiting the number of vessel permits, establishing sanctuaries and banning otter trawls, each with something to recommend it and each controversial. But everyone agrees that what's been done so far isn't working.

The latest advice comes from a committee appointed by the Department of Fisheries and Wildlife of Massachusetts, which estimates the groundfish decline has cost that state $280 million. The committee announced in July that fishing effort and catch will have to be cut by at least half, perhaps permanently, if the stocks are to be returned to their former abundance and support a healthy, profitable fishing industry. The biologists, veteran managers, and fishing industry representatives serving on the committee plan to recommend a way to achieve the 50% reduction, and they are considering every available option, including quotas, closed areas, limited licensing and gear regulations. The present groundfish management plan, administered by the New England Council, relies chiefly on minimum size limits, which are not only difficult to enforce, but result in the waste of undersized fish caught and discarded by non-selective trawls.

NO PLACE LEFT TO HIDE

Managers laboring to conserve swordfish must feel like Sisyphus, the mythological Greek condemned for all eternity to push a huge stone to the top of a steep hill, only to have it slip from his hands and hurtle back down to the bottom, where his struggle would begin again. For over a decade now, just when it seems something might be done to save the failing swordfish fishery, the stone escapes our grasp.

On August 22-23, we approach the top of the hill again. The South Atlantic Fishery Management Council meets to take what should be final action on plans to halt overfishing and begin rebuilding the dwindling northwest Atlantic stock of swordfish. Last March, the Council postponed approval of Amendment One, its controversial proposal to sharply reduce effort by American fishermen. Instead, a pair of independent panels were assigned to review scientific and legal questions raised by critics of the plan. The panels completed their reviews in July and the questions are now answered, clearing the way for action.

Amendment One, as proposed by the South Atlantic Council, would lower the commercial harvest by 78%, allowing only a small bycatch in the tuna longline fisheries. The need for such drastic action was based on the recommendations of a 1989 Swordfish Stock Assessment Review Panel. It was challenged, naturally, by swordfish fishermen and industry lobbyists, as well as the New England Council. (The South Atlantic Council has lead responsibility for swordfish.) But when these were joined by certain influential members of Congress and sympathetic officials in the Administration, the South Atlantic Council opted to douse the political heat. A panel of internationally respected fishery scientists was appointed to make another, impartial review of the biological basis for proposed management measures, and suggest to the Council a preferred course of action.

Not surprisingly, the 1990 Swordfish Review Panel generally agrees with the previous panel's conclusions about the dismal condition of the stock, and has effectively endorsed the strict measures called for in Amendment One. "The Atlantic swordfish spawning stock should be rebuilt to the 1978 level as soon as practically possible," the panel says. "Although we cannot conclude that the population is in immediate danger of stock collapse, fishing at current levels could put the population in danger in a short period of time. (T)he most prudent course of action is to reduce fishing mortality to rebuild spawning biomass. Due to the great uncertainty about estimates of stock biomass . . . we feel that every attempt should be made to move as rapidly as possible towards the $F_{0.1}$ harvest policy [the objective of Amendment One]." The panel rejected the New England Council's interim proposal to cap fishing effort and impose minimum sizes and area closures as ineffectual. In addition, they advised against a phased reduction of fishing effort versus an immediate reduction, pointing out that when delayed, conservation measures "tend to be either ignored or watered down over time."

The consistency of the scientific advice given to the Councils during the last two years removes any doubt about what must be done: decrease the harvest of swordfish, immediately and substantially, or else the fishery is doomed.

The U.S. longline fleet has already begun an exodus from coastal waters, where the stocks have been wiped out or the fish are too small, to the Caribbean and beyond. The likelihood of U.S. boats landing their fish in foreign ports or re-flagging to avoid stringent regulations at home is very real. To prevent this from happening, or other countries from fishing harder and offsetting U.S. conservation measures, Amendment One calls on the U.S. government to enact some form of import restrictions and seek international management to complement our own.

While in the opinion of the panel of scientists "the stock would generally benefit from rational, unilateral management," a second Legal Review Panel, convened by the Department of Commerce, looked at import controls to discourage foreign fleets fishing the same stock from increasing their catches. The panel proposes a plan whereby the level of each country's imports of swordfish into the U.S. would be capped at recent levels.

The National Coalition for Marine Conservation, in giving its strong support to the adoption of Amendment One, is

(continued on back page)

also urging the U.S. delegation to the International Commission for the Conservation of Atlantic Tunas to ask for a sizeable reduction in catches at this year's annual meeting. Scientists from the U.S., the European Community and Spain met recently in Brussels to review the status of the North Atlantic stock in advance of the ICCAT meeting. There was a consensus that the adult stock is declining, the average size of fish is shrinking, and catch is dropping despite a substantial increase in effort and constant relocation of fishing to new areas. The group concurred with the need to reduce fishing mortality at once.

There is, then, a chance that some ocean-wide agreement to conserve swordfish will be reached at ICCAT this November, even though it would be moderate compared to what the U.S. is proposing. The NCMC's position is that adoption of a strong domestic management regime prior to that meeting will greatly enhance the odds for international action.

While the bulk of the American longline fleet is moving to distant waters in search of swordfish, there is rapid growth in the use of pelagic drift nets to clean up what's left in coastal waters of New England and the Mid-Atlantic. The South Atlantic Council has proposed outlawing drift nets, as part of Amendment One, citing the harm of introducing new gear into a depressed fishery and the bycatch associated with this type of gear.

Additional support for a ban comes in the form of the National Marine Fisheries Service's decision, announced on July 17, to move the Atlantic pelagic drift net fishery to Category 1 under the Marine Mammal Protection Act. That means the agency has documented information indicating a "frequent" taking of marine mammals. NMFS reports the fleet has multiplied to 75 vessels and is targeting tuna and shark as well as swordfish. Mammals taken include four species of dolphin (common, striped, bottlenose and Risso's) and two species of whale (pilot and beaked). This effectively rebuts claims of drift netters that their bycatch of mammals is minimal. Also, the fact that it's described by NMFS as a mixed swordfish/tuna/shark fishery shows the nets are indiscriminate in catching large pelagics.

Given the preponderance of evidence in support of Amendment One, the Secretary of Commerce will be hard-pressed not to approve it, even though the Secretary has bowed to commercial interests and rejected swordfish conservation measures in the past. The fishing industry will certainly protest, maybe as loudly as ever. But the industry leadership has become increasingly out of touch with the best interests of the fishermen it represents. Like cheerleaders, they are so caught up in their own zeal, going through their routines and working the crowd, that they have no idea who's winning or losing the game behind them.

COASTAL BARRIER PROTECTION

In an impressive show of support for federal legislation to protect valuable coastal wetlands and nearshore waters vital to the nation's fish and wildlife, 97 conservation organizations, including the NCMC, signed a joint letter to U.S. Senators endorsing S. 2729, a bill to expand the nation's Coastal Barrier Resources System (CBRS). The system, established by Congress in 1982, made 450,000 acres of undeveloped coastal barrier islands and beaches on the Atlantic and Gulf coasts ineligible for federal development incentives, such as flood insurance and construction subsidies. The new bill would add another 800,000 undeveloped acres, including for the first time areas along the nation's major estuaries, such as Chesapeake and Narragansett Bays, as well as portions of the the Virgin Islands, Puerto Rico and the Florida Keys.

Hurricane Hugo, which devastated the South Carolina low country and parts of the Caribbean last September, was a grim reminder of the cost of allowing increased population growth and new development in the fragile and dynamic coastal zone: loss of human life, destruction of homes and businesses, and a huge bill for taxpayers in disaster relief. But even without the specter of another major hurricane (specialists predict more in the next decade), unwise development destroys irreplaceable wildlife habitat, pollutes coastal waters and harms valuable commercial and recreational fisheries. It makes no sense — economically, environmentally or from a public safety angle — for the government to actually promote development by insuring against property losses and giving developers subsidies to build roads, sewers and bridges.

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COASTAL HABITAT: WITHOUT WHICH, NOTHING

"Fishery habitat loss is the single largest threat to the future viability of our fisheries." — William W. Fox, Jr., assistant administrator for fisheries, National Oceanic and Atmospheric Administration (NOAA)

The importance of protecting the coast as habitat for fish and other wildlife is a well understood and accepted part of our environmental thinking. It's basic. We know that if we destroy their feeding and spawning grounds, our fish populations will disappear. That's why numerous laws and institutions are in place to prevent that from happening.

But it's happening anyway. Piece by piece, an alarming amount of fish habitat is being lost to pollution, unwise development and other of man's activities along the thin edge of the coast. Year after year, we continue to whittle away at the foundation of our marine fisheries.

The country has already lost over half the wetlands we started with, including coastal marshlands which support three-fourths of recreationally-caught fish and virtually all the species harvested by commercial fishermen. Yet tens of thousands of acres of these wetlands are still being dredged, filled or otherwise destroyed annually. Toxic chemicals and other wastes are still being discharged into coastal waters, poisoning inshore fisheries and shellfish beds.

This, despite a complex system of laws and policies meant to conserve the habitat of marine fish and wildlife. There are obviously cracks in the system, large enough in size and number to threaten the future of ocean fishing.

The nation is at a critical juncture, as the chronic loss of habitat becomes acute. The coastal population has risen by 40 million people since 1960 — today, about half the population lives within 50 miles of the shoreline — and it continues to grow at four times the national average. Stresses on the fragile coastal environment are expected to increase well into the foreseeable future, and so will related losses to fish and wildlife if we don't act to reverse these trends.

The National Coalition for Marine Conservation (NCMC) thinks that now is the time to re-evaluate our national commitment to conserving fish habitat. On March 7-9, 1991, the NCMC will host a "Symposium on Coastal Fish Habitat Conservation" in Baltimore, Maryland. It will be the fourteenth in our series of national conferences on marine fisheries issues begun in 1976. Joining as co-sponsors will be the National Marine Fisheries Service/NOAA, the U.S. Fish and Wildlife Service, the Sport Fishing Institute and the Chesapeake Bay Foundation.

The purpose of the Symposium is threefold: to promote fish habitat conservation as a national priority in dire need of attention; to expose the flaws in the present system which allow the continued loss and degradation of vital habitiat areas; and to produce recommendations for strengthening the nation's environmental laws as they affect habitat. The conference will provide a forum for policy makers, the fishing constituency and the conservation community to come together on this national problem, and the public is encouraged to participate.

The Habitat Symposium will feature six panel discussions over a 2½-day period. Experts will make presentations on selected topics and participate in discussions open to all conferees. The opening panel will provide an overview of the habitat connection: define the physical and biological parameters of the habitat of marine fish, examine how we assign value to habitat areas, and assess our current objectives in conservation policy.

The second panel will review national trends in habitat degradation and related fisheries declines, as brought on by the disappearance of wetlands, pollution and contamination of coastal waters, changes in the flow of fresh water into estuaries, offshore oil and gas development, and the accumulation of marine debris.

Case studies of distinctive types of habitat supporting major fisheries will follow, with emphasis on how they are impacted by man's activities. Presentations on habitat and dependent species will include: salt marshes and shrimp (important as both target and forage species); Chesapeake Bay and striped bass; coral reefs and reef fish; riparian systems and anadromous species; and sea grass meadows as nursery grounds for a variety of nearshore fish.

The Symposium will then shift gears and focus on the laws and institutions designed to conserve habitat. Speakers in panel four will assess the NOAA Coastal Oceans and NMFS Habitat Conservation Programs, the authority given Fishery Management Councils under the Magnuson Fishery Conservation and Management Act, and habitat restoration efforts. Also, they will look at the status of our national

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Inside

policy of 'no net loss of wetlands,' how state and federal agencies interact in the narrow coastal zone, and how to more effectively involve the public in habitat protection. One goal of the Symposium is to join commercial and recreational fishing interests together with environmental groups to enhance the political base for habitat protection.

Speakers in panel five will critique the primary statutes designed to protect the coastal environment and the mechanisms to implement them. Federal laws reviewed will include the Clean Water Act, Coastal Zone Management Act, Fish and Wildlife Coordination Act and Marine Protection, Research and Sanctuaries Act, among others. The panel's task will be to determine why habitat losses occur in spite of these laws, and whether the chief problem is with the laws themselves, in their execution and enforcement, or both.

The concluding session will feature representatives from the recreational and commercial fishing communities, industry, government and the environmental movement, to answer the challenge of developing a new perspective on habitat in this country, one which will balance conservation and coastal development in a way that will better protect coastal resources.

The complete proceedings of the Symposium will be published by the NCMC. For more information on the "Symposium on Coastal Fish Habitat Conservation," write: Habitat, c/o NCMC, P.O. Box 23298, Savannah, GA 31403.

RED SNAPPER AT SUNSET

Feds Back Down on Reducing Bycatch

When we say that the sun is going down at the close of day, it's a poetic remnant of a less enlightened time, when we thought the sun revolved around us instead of the other way around. The earth's horizon is actually moving up to conceal the sun. Likewise, if the proverbial sun is about to set on the troubled red snapper fishery in the Gulf of Mexico, it's because we're rushing to obscure the light; or in this case, the truth about what is happening and what must be done to stop it.

The Gulf of Mexico Fishery Management Council announced in July that the stock of red snapper in gulf waters faces imminent collapse unless the harvest is cut drastically, and called for strict catch limits, including restrictions on shrimp trawling. Because shrimping kills more snapper than commercial and recreational fishing combined, government biologists warned that if the shrimp bycatch is not significantly reduced, the severely depressed snapper fishery has no hope of recovery.

The Gulf Council proposed amending its Reef Fish Fishery Management Plan to lower the commercial quota of red snapper from 3.1 to 1 million pounds and the daily bag limit for anglers from 7 fish to 2 fish. The Council also recommended closing the gulf to shrimping offshore for 90 days each summer. This last measure, designed to decrease the bycatch of juvenile fish in shrimp trawls — an estimated 12 million fish netted and discarded annually — was chosen over requiring shrimpers to modify their nets with devices to exclude finfish. Council economists figured the closure might be acceptable to shrimpers since it would allow the shrimp to grow larger and thus be more valuable when harvested later on.

They figured wrong. When the Council took the plan to public hearings in August, it drew intense fire from gulf shrimpers, although commercial snapper fishermen and charter boat operators complained, too. The Council received 9,000 comments from the public, overwhelmingly against the plan. The shrimping industry told them, in no uncertain terms, that the closure would put many of them out of business. By the time a follow-up meeting was held in September, a majority of Council members had changed their minds and voted to withdraw the plan.

Unfortunately, the Council not only backed off the shrimp closure, instead asking trawlers to voluntarily cut their bycatch, but eased up on reef fishermen, too. The commercial quota was raised to 2.5 million pounds and the rod and reel bag limit jacked up to 6 fish a day. In the end, a plan that started off cutting the directed harvest by 70 percent now reduces it by less than 20 percent. The shrimp bycatch, meanwhile, will go unregulated for at least another three years. Clearly, the Reef Fish Plan's stated goal of rebuilding the red snapper population to a safe level by the year 2000 cannot be attained with such weak measures. So the Council is revising that goal and moving the target date for stock recovery further into the 21st century.

Fish Excluders Should Be Mandatory

Conservation measures affecting fishermen should be tempered by economic considerations — indeed, the law requires it — but these concerns should never be permitted to overrule the facts. The shrimping industry reacted exactly as it did when faced with measures to protect sea turtles: by disputing the science and denying the extent of their role in the problem. Yet the Gulf Council's change of heart had more to do with intimidation than new information.

Admittedly, the shrimp closure idea was a bad one, but not just because the Council misjudged the shrimpers' reaction. The Council should have made requiring fish excluder devices its preferred alternative from the outset. According to the best available science, the trawl bycatch must be reduced, and the technology exists to do it. And unlike closures, the use of excluders would allow shrimpers to fish when and where they choose.

In testimony presented to the Council, the National Coalition for Marine Conservation recommended requiring use of the National Marine Fisheries Service (NMFS) TED, or trawling efficiency device, developed for its fish exclusion capability and proven effective for that purpose. But it's clear that after their experience with mandatory turtle excluder devices, federal regulators do not relish forcing shrimpers to use it. As it happened, NMFS gave them an excuse not to. The agency advised the Council that its device has not been tested specifically for red snapper and proposed further studies of its own and other excluders before making any device mandatory.

For the last 10 years NMFS has been talking up the ability of its TED to exclude fish from shrimp trawls, and therefore make shrimping more efficient and less wasteful. This claim, though, was always made in the context of protecting endangered sea turtles, and the agency hoped that the fish exclusion feature would be an incentive for shrimpers to use the device voluntarily. Now that the NMFS TED is being promoted by conservationists as the only exclusion technology available to address the fish bycatch problem, the

agency is much less enthusiastic about its invention.

NMFS began experimenting with excluders in shrimp trawls in 1977, with much of their research directed at fish exclusion. The agency's tests show that the model developed by NMFS will allow from 53-78% of the fish entering the net to escape alive. Vertical panels in the TED, which is inserted between the body of the net and the cod end, stop larger fish (and turtles) and shuttle them out an escape hatch at the top. Smaller fish (young red snapper, for instance) can be separated from the shrimp catch with the addition of a finfish deflecter grid and a waterflow accelerator funnel. These play on the differences in behavior between fish and shrimp; the shrimp are carried into the end of the net while the fish are guided out side exits. Tests have repeatedly shown that, when used properly, shrimp losses are minimal, in the 1-5% range. Under the best conditions, catches increase.

There is no credible reason to believe the NMFS TED would not prove effective in eliminating a significant portion of the red snapper that now die in shrimp trawls. The fact is, the excluder option is being dismissed for other reasons. Government regulators are neither ready nor willing to press the issue with shrimpers, and when they are, they would much prefer to do it with a device developed by industry, not government.

The Bycatch Problem is Bigger than Snapper

Overlooked in all the attempts to accommodate and appease the shrimping industry is the overriding issue: unmodified shrimp trawls are decimating whole generations of young fish in the gulf and south Atlantic. Meanwhile, fishery managers, charged with rebuilding depleted stocks, are paralyzed by the industry's untouchable status. Red snapper are a tiny fraciton of the total number of fish killed and discarded by shrimpers each year. One estimate puts the number at 2.5 billion juvenile fish. (Although this number has probably been reduced somewhat by the increased use of TEDs to protect turtles over the past year, the five other devices approved for turtle rescue are far less efficient in excluding fish than the NMFS model.)

Among the species killed in the greatest numbers are croaker, spot, seatrout, sharks, king and Spanish mackerel, and red drum. Also among the discards are under-size shrimp, crabs, rays, sponges, seagrass and numerous other organisms. In other words, bycatch species either support valuable commercial and recreational fisheries or are vital to the marine ecosystem.

Both the Gulf and South Atlantic Councils should be addressing the bycatch problem through their Shrimp Fishery Management Plans. A new amendment to the Magnuson Fishery Conservation and Management Act may force them to do that. It requires that conservation and management programs "consider(s) the effects of fishing on immature fish and encourage(s) development of practical measures that avoid unnecessary waste of fish."

It's ironic that the federal government cracked down on shrimpers to stop them from killing endangered turtles, but is reluctant to take them on over the killing and waste of billions of fish. The mandate for conservation under the Magnuson Act is actually stronger than that of the Endangered Species Act, since it requires action to conserve fish in abundance, to protect them before they become endangered. Is the government waiting for red snapper and other gulf species to become endangered before doing anything about bycatch?

It is possible the Gulf Council's amended Reef Fish Plan will be dead on arrival when it gets to Washington. A decision of convenience made to mollify a powerful interest group may not pass muster with fisheries administrators at NMFS. The head of that agency has pledged that if any plan submitted to him does not prevent overfishing, as required by strict new guidelines, he will send it back to be re-written.

Aware of that possibility, Senator John Breaux of Louisiana introduced a bill at the close of this year's session. The Breaux amendment would prohibit any restrictions on shrimping to reduce bycatch until at least 1993, while more studies are undertaken. It's an outrageous attempt to circumvent the law. And it won't make the problem go away.

THE WITHERING GIANT

Options for Saving the Bluefin are Shrinking, Too

The credibility of international fisheries management is on the line at this year's meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT). More to the point, the onus is on the United States delegation to ICCAT to return home with some solid conservation achievements. Although a number of issues will be on the table in Madrid November 12-16, such as ocean-wide restrictions on swordfish to complement the U.S. management plan and a resolution against pelagic drift nets, the true measure of success will be what the Commission does about the deteriorating bluefin tuna situation.

The ongoing debate in the U.S. Congress over how best to manage highly migratory species of fish, such as the endangered bluefin and other tunas, swordfish, marlin and oceanic sharks, has drawn unprecedented attention to the upcoming ICCAT session. Critics of ICCAT's record on conservation say the U.S. will have to act independently in order to protect the large pelagic fish off our coasts from over-exploitation. Opponents of such unilateral action are dogmatic in insisting that *only* international management can be effective.

The proof is in the pudding. By failing to adopt a conservation agreement of any substance in its 20 years of existence, ICCAT itself provides the strongest case against relinquishing sole management authority to an international body, as we've done with the tunas. The Atlantic bluefin tuna, the biggest and most valued of them all, has been the chief focus of the ICCAT program since its charter was signed in 1969. Yet the bluefin today is arguably the most threatened species of fish in the Atlantic. The continued failure to reverse this situation calls into question the Commission's effectiveness.

The Bluefin Is More Endangered Than Ever

Although bluefin numbers are declining throughout the Atlantic, the western Atlantic stock is in the gravest condition. The number of giant bluefin tuna, age 10-plus fish that make up the spawning stock, has declined by 73 percent since 1970 and is still shrinking, according to ICCAT's own Standing Committee on Research and Statistics (SCRS). The tiny stock of adults is producing very few young fish for the future; in fact, there hasn't been a strong spawning year since 1973. With continued heavy exploitation of both giants and juveniles, the bluefin is moving inexorably

toward the day when the giant spawners disappear, leaving behind a population unable to sustain itself. If such a stock collapse were to occur, it could be several human generations before we see a giant bluefin again — if ever.

What irks conservationists most is that the bluefin is in just as much, if not more, danger than it was when ICCAT enacted its present management program in 1982. For eight years, there's been an annual quota of 2,660 tons and a bycatch-only fishery in the Gulf of Mexico, the chief spawning area for the western Atlantic stock. Under this regime, the SCRS reported at last year's meeting, the number of adult fish has continued its sharp decline while the population of juvenile fish (age 1-5 years) shows negligible improvement. Moreover, there have been recent increases in fishing mortality on young fish.

In short, there has been no recovery, only further decline, yet ICCAT stays the course. When the SCRS first warned the 23-nation Commission about the critical condition of the fishery in 1981, the scientists advised a moratorium, allowing less than 600 tons of fish to be caught "for stock monitoring purposes" only. The subsequent debate over how to divide the tonnage among the major harvesters — U.S., Canada and Japan — resulted in the quota being negotiated upward to 2,660 tons, the amount needed to keep all sectors of the fishery profitable. ICCAT, therefore, allows more than four times the harvest suggested for scientific purposes, even though the Commission persists in referring to it as a "monitoring catch level." The only thing being monitored is the bluefin's steady demise.

The problem is that the international bluefin program is driven by short-term economics. The price that fishermen can get for fresh bluefin dockside is sometimes extraordinary. Buyers for the Japanese market, where most of it goes, have been known to pay $15-20 or more a pound. One giant (over 300 pounds) can net a fisherman several thousand dollars. Even though the big fish are scarce and growing scarcer, their dollar value is going up and so is the effort to catch the big ones. There's no telling how much the last giant bluefin might be worth, but you can bet there's someone out there who'd catch and sell it.

Implement the Moratorium

What can be done to avert this end? For now, ICCAT is the only forum for management, because the U.S. excludes all tuna fishing from domestic regulation under the Magnuson Fishery Conservation and Management Act. Attorneys for the Department of Commerce, which implements ICCAT recommendations under the Atlantic Tunas Convention Act, say the U.S. cannot unilaterally lower its international allocation; i.e., our fishermen must utilize *all* their allotted fish (1,529 tons) or at least try to. It's a curious reading of the law; the treaty states that member nations must implement agreed upon rules, but does not specifically prevent a member from being *more* conservative, if it chooses. Nevertheless, the prevailing interpretation by the U.S. government is that we cannot further reduce fishing for bluefin in U.S. waters until ICCAT says to.

The National Coalition for Marine Conservaton supports a return to the original intent of the ICCAT bluefin program, that is, a complete moratorium on fishing for bluefin in the western Atlantic. Nothing less will rescue the bluefin from its downward spiral. This positon is also supported by the U.S. National Marine Fisheries Service, which recommends that this year's delegation to ICCAT seek a quota "as close to zero as possible." It should be left to the scientists on the SCRS to determine what level of fishing is necessary to monitor recovery in the fishery.

In addition, it's our position that the Gulf of Mexico spawning grounds should be made a sanctuary from fishing for giant bluefin. The current program prohibits directed fishing in the gulf, but allows for a limited bycatch of bluefin in the other tuna longline fisheries. When the 300-vessel longline fleet is in the gulf during spawning season, there is what amounts to a "directed bycatch" fishery; tuna fishermen alter their fishing patterns and gear to catch the enormously valuable giants, keeping the two fish allowed per trip and discarding the rest.

The U.S. longline fleet discarded 1,189 fish in 1989, according to NMFS, double the number of bluefin they landed. Of these, 673 were mature spawners killed and thrown back into the Gulf of Mexico. To halt this slaughter, the gulf should be closed to all indiscriminate longlining during the spawning season, approximately January through May. (The bulk of yellowfin tuna catch is taken in the summer months.)

If ICCAT fails this year to enact more stringent measures to protect the Atlantic bluefin tuna, and the U.S. does not change its tuna policy and move to implement a more conservation-oriented program of its own, there may be but one option left — filing for protected status under the Endangered Species Act. This option was proposed recently by the Sport Fishing Institute (SFI) in a paper delivered to an American Fisheries Society Symposium on Endangered Marine Fish. "In order to prevent these magnificent fish from becoming extinct," says SFI, "the only course of action is to list the species as threatened or endangered," making it illegal to kill or sell bluefin in the United States. If it does come to this, the court of last resort for all animals, it would be a profoundly sad commentary on the state of fisheries management.

WHAT A DIFFERENCE A YEAR MAKES

The Interstate Striped Bass Plan's in Disarray

A landmark on the road to recovery. That's what east coast fishery managers called it when they decided to reopen fishing for striped bass in state waters beginning this year. But others saw it as a detour that could take the struggling striper in the opposite direction. Now that the results of the 1990 spawning survey are in, there's no doubt the interstate conservation program got sidetracked.

Last fall the NCMC and fishermen all along the Atlantic coast urged state agencies not to ease restrictions on fishing for striped bass based on the results of the 1989 spawning season, seemingly the best year-class since 1973. What if, we asked, the spawn was an anomaly? What if it's followed by another dismal year-class in 1990? We'll have to see good reproduction in Chesapeake Bay, the Atlantic striper's main breeding gournd, for at least several years back-to-back before we can say with any confidence that striped bass populations are rebounding.

If last year's nagging question was "What if?", this year, after spawning in the bay returned to form, the question is "What now?" The 1990 count of new fish, conducted by the Maryland Department of Natural Resorces throughout

the Chesapeake and its major tributaries, produced a "young-of-the-year index" of 2.1 fish per haul. That's not just well below the long-term average of 8.0, but ranks among the worst years on record.

The 1989 count of 25.3, exraordinarily high under any circumstances, was either a freak event, or it simply revealed a flaw in the way the index was tabulated. Most of the fish taken in last year's survey came from just one spawning reach in the Choptank River; the counts from the rest of the bay were as pitiful as ever. Skeptics were quick to point this out. Nonetheless, it was immediately embraced by fishery managers as a sign that the Interstate Fishery Management Plan, featuring a moratorium on fishing in Chesapeake Bay and extremely tight restrictions from Maine to North Carolina, was paying off. Within two months, the Atlantic States Marine Fisheries Commission (ASMFC), representing 12 participating east coast states, voted to relax the plan's minimum size limits and allow commercial netting to resume, albeit in a limited fashion. Each state wrote its own changes, and the once uniform interstate effort quickly unraveled into a jumble of rules and regulations.

These changes didn't influence the poor 1990 spawn, but it's a very strong indication that recovery is still some years away. The Interstate Plan's minimum sizes were protecting the 1982 year-class of stripers, a relatively strong group, into sexual maturity. Those fish, on which the recovery has hinged, have had at most only two years to contribute to the depressed population, and now they are being subjected to increased fishing pressure. The ASMFC must admit it jumped the gun, and begin immediately, at its next meeting in November, to reel the states back into a conservative coastwide program.

The NCMC is recommending that the Commission reimplement the uniform rules in effect through 1989. These include closure of Chesapeake Bay to fishing for striped bass and a 37-inch minimum size limit to continue protection for breeding fish from the 1982 class. The states should also agree to keep the plan in effect until there are three above-average spawning seasons in a row.

Overfishing is just one factor in the striper decline; the ongoing bay clean-up is essential, as is more research into how acid rain and other contaminants affect survival of juvenile fish. However, fishing regulation is the only direct, short-term control on mortality, and disturbing new information makes it even more imperative to keep allowable fishing to a minimum. The bycatch of striped bass in the shad gill net fishery is thought to be so high that, according to some biologists, this so-called "background mortality" alone may exceed the level of mortality the ASMFC has projected would be permitted in a fully recovered fishery.

Until 1989-90, the states had been doing well in their cooperative effort to bring back the striped bass. But if they aren't able to get back on track, and quickly, the federal government, which has taken a strong interest in the striped bass recovery, may step in. Rep. Gerry Studds (MA), author of the Atlantic Striped Bass Conservation Act of 1984 which enforces interstate cooperation, is reportedly considering a Congressional hearing to re-assess the situation. The Studds Act expires in September 1991; it could be re-written next year to strengthen federal oversight of striped bass management. In addition, Rep. Frank Pallone (NJ) is sponsoring legislation to make striped bass a game fish, which would outlaw the sale and netting of stripers. Public support for the Pallone bill is growing, a direct result of the breakdown in state management.

CONGRESS APPROVES MAGNUSON ACT CHANGES

Bans Drifts Nets, Includes Tuna — Almost

On October 27, Congress passed legislation renewing the Magnuson Fishery Conservation and Management Act through September 1993. Among the most important features of the "Fishery Conservation Amendments of 1990" are repeal of the long-standing exclusion for tuna fishing and a ban on large-scale drift net fishing. Unfortunately, each comes with a hitch. It also provides fishery managers with authority to impose a moratorium on increases in fishing effort to prevent overfishing, give additional protection to the habitat of salmon and other anadromous species, and develop rules aimed at reducing the bycatch and waste of juvenile fish in commercial fishing operations.

The new legislation makes it illegal for American fishermen to employ drift nets 1.5 miles or more in length anywhere they fish and for foreign fishermen to use the so-called "walls of death" inside the U.S. 200-mile zone. However, the prohibition doesn't limit the number of small-scale nets a vessel may use. The NCMC supported a ban on pelagic drift nets of all lengths, including the shorter nets used by American fishermen to catch swordfish, shark and tuna. (A prohibition on this gear is part of the pending Atlantic Swordfish Fishery Management Plan and drift net bans are being considered in several states.) Still, the law will prevent American fishermen from increasing the length (and destructiveness) of their nets and keep foreign drift net fleets, now known to be active in the Atlantic as well as the Pacific, from entering the U.S. zone.

The biggest disappointment is the bill's treatment of highly migratory species. The NCMC initiated the drive to include tuna under domestic management programs, and the bill does that. But it features a pair of amendments, authored by Senator John Kerry (MA), which cater to commercial fishing interests opposed to tuna management. One gives responsibility for tuna, as well as swordfish, billfish and sharks, to the Secretary of Commerce, not the Regional Fishery Management Councils. The other is intended to make it difficult for the Secretary to impose regulations more stringent than those recommended by international bodies (e.g., ICCAT).

The legislation was approved just as the *Marine Bulletin* was going to press. The NCMC will provide an indepth analysis of the new amendments, what's good and what's bad and the implications for fisheries conservation, in the upcoming issue of *Ocean View*.

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THE MONKEY WRENCH GANG

From public meetings and courtrooms to the halls of Congress and the pages of the national press, the commercial fishing lobby is engaged in what can only be described as a concerted effort to sabotage fisheries conservation. Sure, they give conservation plenty of lip service, but their actions say they don't like it, they don't want it, and they're out to destroy it.

The object of their game is to change the rules and control the players. The attack is on three fronts: eviscerate the Magnuson Fisheries Conservation and Management Act; discredit Bill Fox, the head of NOAA Fisheries, and other conservation-minded government officials; and portray conservation as nothing more than a Trojan horse for recreational fishing interests.

The commercial lobby views conservation as the enemy. (The lobbyists should not be confused with the rank-and-file fishermen, whose interests, in contrast to those who purport to represent them, are in maintaining healthy fisheries.) Maybe they're wrongheaded enough to think that preventing overfishing is contrary to the industry's economic interests. Perhaps they truly believe they ought to be able to catch the last fish, as long as they can sell it at a profit. For whatever reason, the harder fishery managers strive to implement the basic conservation objectives this nation has set into law, the greater the lengths to which the commercial lobby will go to stop them.

After a shaky start, the Regional Fishery Management Councils are beginning to do their job — that is, halt overfishing and rebuild depleted stocks. How has the commercial lobby responded? During Congressional re-authorization of the Magnuson Act this past year, they spread the malicious fiction that the Councils are dominated by recreational interests intent on putting them out of business, and lobbied to alter the way members are appointed to guarantee commercial representatives the majority of seats on every Council. They sponsored language in the House bill placing greater emphasis on appointing members who will represent special interests, rather than getting qualified people committed to serving the *public* interest, where the emphasis should be. In the Senate, they lobbied for an amendment to take management responsibility for swordfish, billfish and sharks away from the Councils and transfer it to the Secretary of Commerce.

Even more insidious than stacking the Councils with anti-conservation forces or, failing that, disempowering them altogether, are the tactics being used to smear Bill Fox. Fox is the first man to head the National Marine Fisheries Service who is both a distinguished marine biologist and experienced administrator, and it would be hard to find someone more qualified to act as chief steward of our marine resources. But what so rankles — no, scares — the commercial lobby is that Fox is a conservationist. By some twisted logic, that makes him an enemy of commercial fishermen; at least, that's the way he's being portrayed.

The name of Bill Fox can hardly be mentioned in the commercial fishing press without alleging that he's "aligned with recreational interests." It's quite shrewd, really. By making him out to be the recreational fox in the hen house, everything he does is automatically suspect; if he approves regulations on commercial fishing, it's because he favors sport fishermen. The result is that with a conservationist finally at the helm of NMFS, at a crucial time when strong leadership is needed to retrieve our fisheries from the brink of wholesale destruction, his effectiveness is being undermined by the petty antics of those who still don't get it.

Fox is actually the victim of a broader campaign to distort the meaning of conservation itself. Historically, the commercial fishing industry has played a reactionary role in management, either resisting any restrictions on fishing or proposing them only to forestall more stringent ones. The current dodge is to play up the traditional conflict between commercial and sport fishermen and paint every conservation measure that's put on the table as merely an attempt by recreational fishermen to take fish away from commercial fishermen. Competition, not conservation, is at the root of most management, they say.

The damage this deceit may do to recreational interests is purely secondary to what it's doing to our fisheries. It diminishes conservation in the public mind and induces people to take the problems less seriously, at a time when the threat to ocean fishing couldn't be any more serious. For this, the commercial lobby can take the credit. But what they will ultimately be credited with is putting the fishermen they represent out of business. Someone in the industry better think this thing through.

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U.S. FISHERIES AT THE CROSSROADS

The headline story of the year in marine conservation is, without question, the unprecedented number of fisheries that are in serious trouble. The now frequent use of words such as threatened and endangered to describe species of ocean fish is not hyperbole, but an accurate assessment of the state of American fisheries.

Most of our important fish stocks are in decline, their numbers depleted by overfishing, and some have already hit bottom. The updates featured in this year-end issue of the "Marine Bulletin" recount the generally dismal condition of our major fisheries and what's being done, or more often what needs to be done, to restore them.

The other signal events of 1990 — the increasing politicization of fishery management decisions, rising enmity between groups of fishermen and a new interest in fishery issues by environmentalists — are all an outgrowth of the malaise that afflicts the nation's fisheries. They are hungover from years of abuse, and our national commitment to conservation is like many a New Year's Resolution; once it gets tough to keep it, we look for excuses not to. But we're running out of excuses.

A Good Law Gone Bad

As we mark the 15th anniversary of the Magnuson Fishery Conservation and Management Act, with which this country made conserving marine fisheries a national goal, we are merely marking time. Of all the troubled fisheries, the plight of groundfish in the northeast offers the most damning commentary. These staple New England fisheries are in worse shape today than they were in the early 1970s, when outrage over foreign trawlers raping cod and pollock supplies just offshore prompted passage of the Magnuson Act in the first place. The optimism that accompanied passage of the 200-mile bill in 1976 has slowly but steadily dissolved into widespread apprehension about what lies ahead.

The Magnuson Act is a good law, if only it were given a chance to work. The problem is, conservation — defined in the Act as "preventing overfishing" and "rebuilding overfished stocks" — requires a temporary economic sacrifice. For that reason, the U.S. fishing industry resists efforts to conserve, exerting its considerable influence on the Regional Councils, the Secretary of Commerce, members of Congress and even the White House in order to weaken fishing regulations or block them entirely.

When Congress began reauthorization of the Act in the spring of 1989, there were high hopes that the lawmakers would stand up for conservation and give managers the green light to make the tough decisions necessary to protect our fisheries, free from political interference. Alas, the bill Congress produced more than a year later was itself a potpourri of political favors for powerful constituents in the fishing industry. The message was unmistakable: as our fisheries deteriorate, management will become more, not less, political.

The Industry's Seige Mentality

No matter how hard we try, we can't escape the fact that conservation is addition by subtraction; that we must give something up in order to get back something more. Catering to short-sighted fishermen by looking for painless ways to stop overfishing is futile. By doing so, managers only increase the pain and prolong the suffering for all concerned. The aforementioned groundfish decline, for instance, is costing the nation thousands of jobs and millions of dollars, while the traditional New England fishing industry hangs by a thread.

Nevertheless, the industry is circling the wagons as if they were under attack from without. An unfortunate casualty of this seige mentality is the olive branch extended not too long ago between recreational fishermen and commercial fishermen seeking to work together to check shrinking resources. In 1990, that branch was thrown down as a gauntlet by those commercial users who've decided instead to declare war and fight for their piece of a shrinking pie. Sadly, it's a war no one can win.

Needed: A More Informed Public

Marine conservation is still in that stage of evolution similar to where wildlife conservation was 30 years ago, before the advent of the environmental movement. The key conservationists are sportsmen or organizations supported primarily by sportsmen, because they know and experience firsthand the effects of over-harvest and habitat destruction. Among salt water anglers, concern born of self-preservation has evolved into a strong conservation ethic and activist spirit.

The public remains largely uneducated to the problems confronting ocean fisheries and how it affects their lives. But that's beginning to change; in part because the work and the message of the National Coalition for Marine Conservation is reaching a broader audience, and partly because the environmental community, which has stood on the sidelines for so many years, has finally decided to enter the game. The new interest in fish among mainstream environmental groups can be traced to the drift net and shrimp trawl bycatch issues, wherein the direct threats to marine mammals and fish overlap, and to the fact that many fish species are approaching endangered status.

The sea is a public resource, and there should and must be broad-based support for conserving fish populations. The over-exploitation of targeted fish stocks, the intolerable waste of bycatch species caused by the use of indiscriminate fishing gear, and the degradation of the coastal environment are everybody's problems. They aren't going to go away until more people get involved in fisheries issues and take a stand for conservation.

ISSUE UPDATES, 1990-91

FATE OF BILLFISH STILL ON THE (LONG) LINE

The federal law protecting Atlantic marlin and sailfish from commercial exploitation, challenged in court by the fishing industry, was upheld. The court ruled in March that the U.S. may ban the sale of a marine fish if responsible managers deem it necessary to conserve that species, in this case one of paramount value as a recreational resource. An economic study out of Texas A&M University revealed that tournament anglers spend $3,310 for every billfish they catch, and that 9 out of 10 of these fish are released alive. The National Marine Fisheries Service (NMFS) moved to close loopholes in the law to prevent billfish caught in the Atlantic longline fisheries from being sold on the black market or as Pacific fish.

Evenso, the capture of billfish on non-selective longlines remains a substantial threat to stocks in both the Atlantic and Pacific. The NCMC's research into the extent of the billfish bycatch — an estimated 25,000 blue and white marlin and sailfish are caught by commercial fishermen yearly in the Atlantic, and at least half are dead when released — played a critical role in drawing attention to this issue. We aggressively pressed the Regional Fishery Management Councils and NMFS officials to take action. However, the exclusion of domestic and foreign tuna fisheries from U.S. management authority remained a serious obstacle,and the NCMC lobbied Congress to change the law.

When Congress renewed the Magnuson Fishery Conservation and Management Act late in the year, it repealed the politically-motivated tuna exclusion, an objective sought by the NCMC for many years. However, the new law also transfers authority over billfish, along with tuna and other pelagics, in the Atlantic (but not the Pacific) from the Regional Councils to the Department of Commerce. This move, along with other provisions affecting the management of the pelagic fisheries, was made to appease the powerful commercial longline lobby, which vigorously opposed tuna inclusion.

BLUEFIN SITUATION DETERIORATES

The northwest Atlantic population of bluefin tuna continued to shrink, as it has every year since 1970, notwithstanding the ocean-wide conservation program initiated by the International Commission for the Conservation of Atlantic Tunas (ICCAT) in 1982. The NCMC worked hard to get the U.S. delegation to press for tougher international measures this year, but to no avail.

At the November 1990 ICCAT session, the Commission's scientific advisors warned that the number of giants (spawning age fish 8 years and older) has now dropped to a mere 10% of their number 20 years ago, when the fishery was at its peak, and that not enough medium-age fish are surviving to join the spawning stock because of continued heavy fishing pressure. The 23 ICCAT member nations (including the U.S.) responded to this information in a manner typcial of those more interested in maintaining present harvest levels than in rebuilding stocks. They took the bad news to mean "no increase in the quota at this time," and didn't even consider lowering it.

ICCAT has demonstrated an unvirtued amount of patience in waiting for a new generation of bluefin to replenish the breeding stock. There is no clear evidence that is even beginning to happen. In the meantime, the number of giant bluefins approaches critical mass, a point beyond which the species will disappear.

The newly amended Magnuson Act, which brings tuna fishing under U.S. management for the first time, does not permit the U.S. to lower or decrease an international quota. Nonetheless, the U.S. could and should tighten up controls on the bycatch of giants in the Gulf of Mexico, the bluefin's prime spawning area. Observer reports obtained by the NCMC in October reveal widespread cheating on catch limits there by U.S. longliners. American longline vessels are allegedly trading illegally caught bluefin to Mexican fishermen for yellowfin tuna. Moreover, the sale of bluefin in Louisiana was reportedly rampant after the U.S. quota was met in February. The NCMC brought these reports to the attention of NMFS and urged an investigation.

The ability of NMFS to monitor much less enforce bluefin bycatch restrictions on a fleet of several hundred tuna longline vessels is questionable. The NCMC, therefore, is recommending complete closure of the Gulf of Mexico to tuna longlining during the bluefin spawning season (roughly January - May) as the only way to give the adult fish the protection they need.

ANTI-DRIFT NET LAWS ENACTED

The NCMC began the year by issuing an "Ocean View" report documenting the destructiveness of the pelagic drift nets used by foreign fleets on the high seas and American fishermen off our own shores. During the year, we worked hard to ban the free-floating entanglement nets, backing national legislation to outlaw drift nets and working for controls in several fisheries around the country.

Congress amended the Magnuson Act to prohibit the use of nets 1.5 miles or longer, codifying UN Resolution 44/225, which calls for an end to large-scale drift netting by 1992. Both the North Atlantic Salmon Conservation Organization and ICCAT resolved to implement the UN Resolution for fisheries under their jurisdiction. The urgency of an end to high seas drift netting was underscored in a mid-year report of the National Oceanic and Atmospheric Admininstration, which is monitoring foreign drift netting in the North Pacific. Data from observers aboard Japanese squid vessels showed a frighteningly high incidental slaughter and waste of marine life, including large numbers of tuna, sharks, salmon, porpoise and seabirds.

On the homefront, U.S. officials outlawed the use of drift nets of any size in the southeast king mackerel fishery. Many of these Florida-based netters then shifted to sharks, prompting that state to seek additional controls. On the Pacific coast, California made all gill and entanglement nets illegal within 3 miles of shore as of 1994.

The NCMC continues to press for a prohibition on drift nets under pending swordfish regulations. The swordfish drift net fishery expanded in the northwest Atlantic during 1990. NMFS issued 72 permits for drift netting, and 29 vessels reported activity during the year. After much wrangling over the release of bycatch figures, NMFS finally confirmed the nets, which are also set for tuna and sharks, are killing an intolerable number of marine mammals, and began closer monitoring of the fishery for violations of the Marine Mammal Protection Act.

NORTHEAST FISHERIES FLOUNDER

The number one story in New England in 1990 was the demise of the region's number one fishery. Overfishing and inept management have brought northeast groundfish stocks — cod, haddock, flounder and hake — to record low levels. After foreign fishermen were kicked out of the U.S. zone in 1976, American trawlers were primed with low-interest loans and other government incentives. Pretty soon the fishing capacity of the fleet far surpassed the ability of the resource to sustain it. Yet the industry-dominated New England Council refused to put any limits on fishing effort or mortality, opting instead for hard to enforce and ineffective minimum mesh sizes in trawl nets.

The cost of overfishing, to the industry and the regional economy, has been enormous. According to a recent report by the Massachusetts Offshore Groundfish Task Force, the lost harvest due to depleted groundfish stocks is 137 million pounds a year, which translates into annual losses to the New England economy of $350 million in gross income and 14,000 jobs. Consumers are paying more for scarce supplies and fishermen have little confidence in the future of the tapped-out fishery. There was never stronger proof that managers who allow short-term economic interests to override conservation, in the mistaken belief they are helping the fishermen, are only paving the way for disaster.

SLOWLY BUT SLOWY, PROGRESS ON SWORDFISH

Long-needed controls to stop overfishing of severely depleted Atlantic swordfish stuttered and faltered throughout the year. Then, just when a Council-prepared management plan (so-called Amendment One) was finally submitted to Washington in November, Congress handed responsibility for swordfish over to NMFS in the Commerce Department, and the plan was put on hold once again. Following an ICCAT meeting where the swordfish decline was the principal topic of discussion, NMFS is preparing its own management program, and will air several options at a public hearing in January.

Among those options will be Amendment One to the Swordfish Fishery Management Plan, in which the Councils proposed a three-year phased in reduction of catch, beginning with a 35% cut in 1991, and a ban on drift netting swordfish. Amendment One was directly responsible for progress this year at ICCAT, where the Commission recommended a minimum size of 55 lbs. and a 15% cut in landings of fish above that size. Although the international recommendation could equal or possibly exceed the Council plan in reducing overall landings, it will still result in a high mortality of young fish, since longlines do not discriminate between big and small fish and most fish hooked are already dead when brought to the boat. The NCMC is urging immediate adoption of regulations similar to those contained in Amendment One.

GULF FISHERIES HELD HOSTAGE TO SHRIMPING

Updated assessments showing that the stock of red snapper in the Gulf of Mexico is not only in serious decline but may actually be on the verge of stock collapse prompted the Gulf Council to propose tougher restrictions on fishing under its Reef Fish Plan. The biggest factor in the decline is the gulf shrimp trawl fishery, which kills and discards millions of juvenile snapper (and billions of other fish) each year. The suggestion of measures to reduce this bycatch — either seasonal closures or mandatory excluder devices — touched off a firestorm of protest from the shrimping industry, and that option was dropped like a hot potato in favor of asking shrimpers to voluntarily cut their harvest of red snapper in half by 1993. Commercial and sport reef fishermen, on the other hand, were hit with big cuts in quotas and bag limits.

Subsequently, legislation backed by gulf coast Congressmen took the shrimp bycatch issue completely off the table by forbidding any regulation to reduce it until 1994. This micro-management of fisheries by Congress reduces the options of managers confronted with a very serious resource problem. It also assures that the decline of gulf fisheries due to unmodified shrimping will continue unabated during the next several years. To make sure that no more time is lost after the Congressional reprieve expires, the NCMC is supporting an amendment to the Reef Fish Plan stipulating that if the shrimp trawl bycatch is not reduced by 50% as of January 1, 1994, gulf shrimpers will be required to use a fish excluder device capable of cutting the waste in half or the fishery will be closed.

A COASTWIDE BLUEFISH PLAN

An east coast management scheme for bluefish was implemented last May, making it one of the few plans to take a preventive approach to resource conservation (the Atlantic Billfish Plan is another), rather than waiting for the fishery to go down the tubes first. The plan limits anglers to 10 fish a day and commercial fishermen to no more than one-fifth of the total catch, thereby heading off development of a large-scale net fishery. However, although the plan was endorsed by the Atlantic States Marine Fisheries Commission (ASMFC), some states have been slow to come on line and enact complimentary regulations. Coastwide compliance is essential because bluefish swim freely between state and federal waters.

The failure of states to join in a uniform interstate striped bass plan prompted Congress to enact the Atlantic Striped Bass Conservation Act of 1984, which imposes a federal moratorium on fishing in the waters of any state not implementing agreed upon regulations. The NCMC believes legislation is needed to broaden the federal incentive for coordinated management to bluefish and other inshore migratory species, too.

SHARK PLAN GOES AWAY, OVERFISHING DOESN'T

At the start of 1990, it looked like emergency action to protect oceanic sharks in the Atlantic from being decimated by greedy and cruel fishing practices was imminent. The plan developed by NMFS was not without its faults, but it would have done two important things: stopped the mutilating of sharks for their fins and capped the quickly growing commercial fishery. Its most glaring fault was that while it proposed a strict bag limit to achieve a sizable reduction in the recreational catch, it allowed the commercial harvest to remain at recent levels. For just that reason, the plan was withdrawn for revision.

But because of the delay, "finning" continues and commercial and recreational catches keep climbing. The reasons for re-writing the plan were valid, but that doesn't explain why emergency action was not taken to outlaw the finning of sharks at sea, to keep fishing pressure from increasing, and begin gathering much-needed data on catch and effort,

as the NCMC urged. For political reasons (i.e., pressure from the pelagic longline industry which relies more and more on shark as tuna and swordfish disappear), the Secretary didn't act. So the year ended as it began, but with shark populations in worse shape than ever.

HABITAT PROTECTION

The NCMC worked on behalf of a number of initiatives to better protect the habitat of marine fish during 1990, not the least of which was planning and organizing the "Symposium on Coastal Fish Habitat Conservation," which will be held March 7-9, 1991 in Baltimore. A central theme and purpose of this national conference is to identify the weaknesses in our laws and policies, or in our resolve to implement those laws and policies, that permits the steady erosion of the very foundation of our ocean fisheries. By way of illustrating the point, the President's avowed policy of No Net Loss of Wetlands was undercut by his decision, under pressure from developers, to water down a landmark cooperative agreement between the Environmental Protection Agency, the agency with lead responsibility for wetlands protection, and the Army Corps of Engineers, the leader in permitting wetlands destruction.

Still, the year brought several crucial victories for the marine environment. Congress more than doubled the amount of shoreline habitat protected as "Coastal Barrier Resources," adding 819,000 acres to the system. Congress also passed the "Florida Keys National Marine Sanctuary and Protection Act," establishing a national sanctuary to preserve the coral reefs of the Florida Keys. And lawmakers rejected a last-ditch effort by polluters to extend the 1992 deadline for ending ocean dumping of sewage and industrial wastes. Unfortunately, Congress postponed action on the "Coastal Defense Initiative," a major anti-pollution bill, until the 1991 session.

ONE STEP FORWARD,TWO STEPS BACK

1990 was the first year of fishing in Maryland waters of Chesapeake Bay since that state declared a moratorium in 1984. After a high "young of the year" index in 1989 (the index measures reproduction in the Chesapeake) and subsequent political pressure from commercial fishing interests to re-open the Atlantic coast fishery, Maryland lifted its moratorium and, along with neighboring states involved in the interstate striped bass management effort, allowed limited commercial and sport fishing. Hopes of the onset of a recovery in the striper fishery were dampened, however, when the results of the 1990 spawning index were announced — the lowest since 1982 and one of the worst years on record.

Fishing pressure isn't the only factor in the striped bass decline. Poor environmental conditions in Chesapeake Bay, where the majority of the east coast stock originates, are suspected of contributing to the extremely high mortality among juvenile fish that is keeping striped bass numbers depressed. But fishing is the only part of the equation managers can control in the short run. Another reason to keep fishing at a minimum is the bycatch of bass in other fisheries, which is believed to be quite substantial.

Big questions remain about both the true condition of the stock and the effectiveness of existing regulations. The NCMC is concerned that state officials maintain a tight rein on fishing effort until we see consistent improvement in spawning success and juvenile survival. Allowing incremental increases in fishing pressure at every positive sign, and shrugging off the negative ones, not only slows the rebuilding process but erases progress already made. Despite the easing of restrictions, many recreational fishermen are still voluntarily releasing their catch or refraining from fishing altogether. Moves are afoot in several states to designate stripers game fish, or at least limit fishing to hook and line gear only.

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CURRENTS

National Coalition For Marine Conservation, Inc.

A Bi-monthly Summary of Coalition News & Activities

June 1990

Senate Panel Approves Magnuson Act Re-Authorization. On May 22 the Senate Commerce Committee approved S.1025, a bill to renew the Magnuson Fishery Conservation and Management Act through 1992. The bill contains several important amendments. Among these are repeal of the long-standing U.S. exclusion of tuna management authority, and a ban on large-scale drift nets, both supported by the NCMC. However, we object to two provisions in the bill. One would give authority over highly migratory species (tuna, billfish, swordfish, sharks) in the Atlantic to the Secretary of Commerce rather than the Regional Councils. Another would prevent the U.S. from enacting regulations more restrictive than those receommended under international treaties. We are asking Rep. Gerry Studds (MA), author of the House bill (HR 2061), and other key Congressmen, to oppose the inclusion of either provision in the final re-authorization legislation.

Protection is Demanded for Flower Garden Bank Reefs. The NCMC joined 17 other national organizations and 54 local and regional groups in formally requesting the deletion of ocean areas around the Texas-Louisiana Flower Garden Bank coral reefs from any future offshore oil lease sales. According to Bethlyn McCloskey, the Coalition's Director of Environmental Affairs, the federal government's OCS 1991 lease sales would allow oil drilling adjacent to these extremely sensitive coral reefs in the Gulf of Mexico. The Flower Garden Banks have been proposed as a National Marine Sanctuary, with designation pending.

Close Fishing Grounds for Groundfish? Stocks of cod, haddock and yellowtail flounder are overfished and have been in continuous decline for over a decade, despite size limits implemented as part of the Northeast Multi-Species Management Plan. The New England Council is now looking into new proposals to protect juvenile fish which, despite the regulation of mesh sizes, are killed and discarded in huge numbers by indiscriminate trawls targeting legal size fish. One option under consideration is the closure of Stellwagen Bank, Jeffreys Ledge and other areas to all or certain types of gear or vessels capable of catching groundfish. "There is a sense of urgency demanding quick action," says President Chris Weld of the NCMC Boston office. "Recent reports of a bumper crop of young fish mean that now may be the last chance we have to rescue the New England groundfish fishery from long-term damage."

Alabama Tournament Benefits NCMC. A portion of the proceeds from the Orange Beach Blue Marlin Classic, held June 7-10 in Orange Beach, AL, were donated to the NCMC. The tournament this year instituted a 100 inch min. length (LJFL) for blue marlin; the legal min. size is 86 inches. All but one marlin caught in the tournament were tagged and released.

Shark Plan Recalled. The National Marine Fisheries Service (NMFS) has temporarily withdrawn emergency regulations to protect over-exploited Atlantic sharks. The NMFS plan includes a ban on finning sharks at sea, a bag limit for anglers, and a commercial quota of 5,800 metric tons (MT). The plan is reportedly being revised to respond to widespread criticism that the commercial quota is not nearly low enough to stop overfishing. NMFS still hopes to enact the regulations later this year. Unfortunately, the delay will by then have permitted the total catch for 1990 to exceed 10,000 MT, putting stressed shark populations at even greater risk.

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High Seas Drift Nets Come to the Atlantic. A recent report of eight Taiwanese drift net vessels off-loading in Trinidad & Tobago, in the southeastern Caribbean, is the first evidence that Pacific-style large scale drift nets are being introduced into the Atlantic. The NCMC has brought this to the attention of high level officials at the State Department, and is urging the U.S. to put the issue on the table at ICCAT this fall and seek a ban on this destructive gear throughout the Atlantic.

Council Addresses Billfish By-Catch Problem. In response to a request from the NCMC, the South Atlantic Council conducted a study of pelagic longline by-catches of blue and white marlin and sailfish and presented the results at a June 13 meeting in Key West, FL. While the data is "preliminary," it confirms that our 1989 estimate of 12,000 billfish killed yearly is probably conservative. NCMC Executive Director Ken Hinman told the Council that this extremely high level of mortality undermines the objectives of the Atlantic Billfish Plan, and called for measures to reduce it. He cited a recent NOAA decision on regulating shrimp trawl by-catch through the Reef Fish Plan as clearing the way for controlling longline by-catch through the Billfish Plan.

Atlantic Salmon. NCMC Chairman Frank Carlton attended the 7th Annual Meeting of the North Atlantic Salmon Conservation Organization (NASCO) in Helsinki as head of the U.S. delegation. Dr. Carlton expressed U.S. concerns that interceptions of American-origin salmon migrating off Canada and West Greenland are eroding efforts to restore New England river production. "Many more U.S.-produced Atlantic salmon are exploited by others than are exploited by U.S. fishermen," he told the commission. In other action, NASCO adopted a resolution in support of the U.N. General Assembly's call for an end to high seas drift netting by 1992.

"Abundant Ocean Plan" Enters Final Phase. The NCMC-Pacific Region's three part Abundant Ocean Plan is entering its third and final phase. In 1988 the group completed and released an independent study of California's fishery management system. A series of workshops were then held around the state to discuss recommendations with fishermen, legislators and state managers. The workshops revealed, among other things, that nearly everyone is unhappy with the status quo and is ready for a change. A committee representing state fishing interests has been appointed to identify specific changes to improve ocean management, to be introduced into the state legislature. NCMC-PR announced on May 23, however, that it will postpone any action on committee recommendations until after November to concentrate its efforts on passage of the Marine Resources Protection Act, known as the "gill net referendum." On May 5, over one million signatures were presented to state officials, qualifying the initiative to ban gill nets in California waters for a spot on the fall election ballot.

Swordfish Plan Still Under Review. The South Atlantic Council is awaiting reports from two special panels assigned to review legal and scientific questions surrounding proposed rules to rebuild the severely overfished stock of Atlantic swordfish. The legal panel will make recommendations on import and re-flagging restrictions. The scientific panel is re-examining management options. The Council will act on the recommendations in August. Meanwhile, there is mounting evidence that the swordfish fishery may already be collapsing, as U.S. longliners leave for the Caribbean, the Pacific, or gear up with drift nets to catch what's left in coastal waters. NMFS, which had observers aboard drift net boats last summer, continues to refuse to release information on the incidental catch of fish and marine mammals, despite repeated requests from the Councils, NCMC and mammal protection groups.

CURRENTS

National Coalition For Marine Conservation, Inc.

A Bi-monthly Summary of Coalition News & Activities

September 1990

Les Smith. The fishery conservation world lost a very good friend when Lester B. Smith, Sr. died on August 29 after a short illness. Les, a native of Natick, Massachusetts, was well known and respected for his tireless commitment to the cause of marine conservation. A member of the NCMC's Board of Directors since 1986, he also founded and served as President of the Coalition to Cease Ocean Dumping and the Atlantic Sportfishing Association. For years he was the lone voice for conservation on the New England Fishery Management Council; in the words of his fellow New England conservationist Henry David Thoreau, "a majority of one." But above all else, he was a dear friend, and we will sorely miss him.

NCMC Backs Federal Striper Ban. The NCMC submitted comments to the National Marine Fisheries Service (NMFS) on July 19 on a proposed regulation to prohibit fishing for Atlantic striped bass in federal waters (beyond 3 miles offshore). We support this measure as necessary to better enforce fishing regulations in state waters. Enforcement is hampered when fishermen, to evade state laws on possession, size and closed seasons, claim the fish they possess were caught beyond the three-mile limit. Since the Interstate Management Plan has permitted east coast states to relax conservation measures this year - a move we argued against -it is critical that these laws be strictly enforced to ensure that fishing effort remains as conservative as possible under the law. A ban on catching or possessing striped bass in the federal zone will help speed the striper's recovery in state waters.

Workshop to Study Shrimping Bycatch. The NCMC will co-sponsor a problem-solving workshop on the excessive bycatch of finfish in the gulf shrimp trawl fisheries, being organized by the Center for Marine Conservation and tentatively scheduled for January 1991. The Center, a Washington-based environmental group, was a leader in the campaign to require TEDs to protect sea turtles from shrimp nets and has recently become active in fishery conservation issues.

Weld Named Tuna Commissioner. On August 9, President Bush announced the appointment of NCMC President Christopher M. Weld to serve as one of three United States Commissioners to the International Commission for the Conservation of Atlantic Tunas (ICCAT). Weld will represent the U.S. at the upcoming ICCAT meeting November 12-16, 1990 in Madrid, Spain. In addition, Coalition Chairman Frank E. Carlton was re-appointed to the U.S. Advisory Committee, which meets in Washington October 15-16 to develop this country's position on such pressing issues as ocean-wide protection for dwindling bluefin tuna and swordfish stocks. NCMC recommendations for this year's ICCAT session were featured in a recent issue of Ocean View entitled "International Commission Must Confront Declining Atlantic Fisheries."

Coalition Signs On to Coastal Barriers Report. The NCMC joined other member organizations of the Coast Alliance in endorsing a new report, "Using Common Sense to Protect the Coasts: The Need to Expand the Coastal Barrier Resources System." The report was released by the Alliance in September to coincide with likely Congressional votes on legislation to prohibit taxpayer-subsidized development on 800,000 acres of fragile and irreplaceable coastal lands, including critical habitat for fish and other wildlife.

Mid-Atlantic Council Appointment. Charles H. Johnson, an NCMC Director and President of the New York Sport Fishing Federation, was re-appointed to another 3-year term on the Mid-Atlantic Fishery Management Council. The Mid-Atlantic Council is responsible for managing fisheries off the coasts of New York, New Jersey, Delaware, Maryland and Virginia.

Final Push on to Amend Magnuson Act. NCMC directors and staff spent the summer working for passage of the Fishery Conservation Amendments of 1990, including an amendment to repeal the Magnuson Act's tuna exemption. The 101st Congress will take final action this fall. Both the Senate and House versions (S.1025 and H.R.2061, respectively) bring tuna under U.S. management authority, along with other conservation-oriented provisions, such as a ban on large-scale drift nets. However, because there are some critical differences in the two bills, the House and Senate must confer to produce one bill to send to the President. The NCMC is solidly backing the House version, because, in contrast to the bill pending in the Senate, it gives the Regional Councils (instead of the Commerce Department) authority to conserve and manage

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tunas along with other pelagics and allows the U.S. to enact measures within our 200-mile zone stricter than those recommended by international bodies such as ICCAT. **Readers are urged to write Cong. Gerry Studds, Chairman of the Fisheries Subcommittee which produced H.R.2061, and tell him you support a bill which will allow the Councils to manage tuna, and according to the conservation objectives of the Magnuson Act, not ICCAT.** (Address: The Honorable Gerry Studds, c/o House of Representatives, Washington, DC 20515)

Closure Recommended for Atlantic Red Drum. All harvest or possession of red drum (a.k.a. redfish, channel bass or spot-tail bass) in federal waters, from the New York/New Jersey border to the Georgia/Florida line, will be outlawed if the Secretary of Commerce approves a plan drafted by the South Atlantic and Mid-Atlantic Councils. The Atlantic stock of red drum is following in the path of the depleted gulf stock; intensive fishing of juvenile redfish in nearshore waters has caused the spawning stock to shrink to a dangerously low level. The Council fears the development of a directed commercial fishery offshore, which would further decimate the spawning stock. The NCMC supports the proposed closure, which would remain in effect until the spawning stock is rebuilt to a safe level.

Shark Crisis. You can cancel emergency regulations, but you can't cancel the emergency. Citing delays in federal action to protect Atlantic sharks from overfishing and the risk of irreparable damage to shark populations, the NCMC asked Secretary of Commerce Robert Mosbacher on August 16 to declare a resource emergency under the Magnuson Act and implement conservation measures immediately. We called for a ban on finning sharks at sea, closure of the directed commercial fishery for the remainder of 1990, and a strict bag limit for recreational anglers to encourage the live release of sharks.

Fish Habitat Symposium. The Chesapeake Bay Foundation, the largest conservation organization dedicated to protecting the east coast's largest estuary, has joined as a co-sponsor of the NCMC's "Symposium on Coastal Fish Habitat Conservation," to be held March 7-9,1991 in Baltimore, Maryland. Other sponsors include the National Marine Fisheries Service/NOAA, U.S. Fish and Wildlife Service and Sport Fishing Institute.

South Atlantic Council Approves Swordfish Plan. In testimony submitted to the South Atlantic Fishery Management Council on August 20, the NCMC urged the Council to approve an Atlantic swordfish plan which would substantially reduce fishing effort and prohibit the use of drift nets. After reviewing the report of a special panel of scientists convened to re-assess the condition of swordfish, the NCMC concluded: "A state of severe overfishing clearly exists, according to the best scientific information available. The Council, as mandated by the Magnuson Act, must implement a management program to protect swordfish from overfishing and rebuild the stock." At its August 23 meeting, the Council reached the same conclusion and approved a strong conservation program, sharply cutting back on the harvest of swordfish and banning the use of drift nets. The plan reduces fishing mortality over a three-year period, beginning with a 35% reduction in the first year. In addition, the U.S. will restrict imports of Atlantic swordfish by an equivalent amount. There will be no limits on rod-and-reel fishing, but sport-caught swordfish cannot be sold. Barring any further political interference on behalf of the commercial fishing industry, the plan should become law in early 1991.

environmental groups, the NMFS drift net monitoring program and numerous newspapers and magazines. As a result of pressure from the U.S., according to a story in an upcoming issue of Salt Water Sportsman, Trinidad's National Fisheries Corp., the nationally-owned seafood brokerage, decided on September 5 to refuse to service or buy fish from any vessels equipped with the long, super-destructive nets. The present whereabouts of the Taiwanese vessels, prevented from docking in Trinidad after the recent coup attempt there, is unknown.

Attempt to Continue Ocean Dumping is Thwarted. The NCMC wrote House Merchant Marine and Fisheries Committee Chairman Walter B. Jones in August in opposition to H.R. 4876, a bill to delay the deadline for ending offshore dumping of sewage sludge. On September 4, Cong. Jones told Executive Director Ken Hinman that his committee "has no plans for moving legislation this Congress to amend the deadlines or penalties in the Ocean Dumping Ban Act of 1988. As you point out, dumping can continue past this date [December 31, 1991] only with the payment of large penalties. With the exception of Nassau County, the other New York and New Jersey communities are all in compliance with their consent agreements to end ocean dumping by the deadline or shortly thereafter."

CURRENTS

National Coalition
For Marine
Conservation, Inc.

**A Bi-monthly Summary
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November 1990

Swordfish Conservation at Home and Abroad. The House Fisheries Subcommittee held an oversight hearing Sept. 19 on the impact of pending domestic management of Atlantic swordfish on efforts to obtain international cooperation to half overfishing. The NCMC submitted written testimony, arguing that "our best chance for obtaining a strong and effective conservation program at the international level is to (first) take strong action here at home." Proposed regulations for the U.S. swordfish fishery, calling for a 35% reduction in catch beginning in 1991, were submitted by the South Atlantic Fishery Management Council just prior to the Nov. 12-16 meeting of the International Commission for the Conservation of Atlantic Tuna (ICCAT). In our view, the odds of the U.S. delegation persuading ICCAT to adopt ocean-wide measures are enhanced when the U.S. can demonstrate a national commitment to conservation.

Habitat Restoration. NCMC Executive Director Ken Hinman attended a Conference on Marine Habitat Restoration sponsored by the National Oceanic & Atmospheric Administration Sept. 25-26 in Washington. A recurring theme at the conference was that our ability to restore lost habitat is still very much in the research and development stage. Restored habitats - wetlands, for example - cannot functionally replace natural habitats. As one speaker put it, restoration is a last ditch effort to compensate for habitat loss, not a substitute for habitat protection.

The Black Market for Marlin. Marlin is still found on restaurant menus on the east coast, despite a federal law banning the sale of billfish caught in the Atlantic. Are these fish legal or illegal? Up until now, it's been nearly impossible for enforcement agents to be sure. Existing rules require that seafood dealers document where a billfish was caught. But the problem is that "dealer" is defined as only the person who first receives the fish; restaurants and retail fish markets don't need paperwork. Also, similar billfish species can be sold without documentation, which means the law can be evaded by claiming the marlin for sale is black or Pacific blue. So on Sept. 27, the National Marine Fisheries Service (NMFS) announced new regulations aimed at shutting down the black market for Atlantic billfish: now, any person possessing any species of billfish at any point in the commercial marketplace must have documentation certifying the fish was harvested legally.

Magnuson Act and Bycatch Topics at USF Meeting. Ken Hinman represented the NCMC at a 2-day meeting of United Sport Fishermen in Mobile, AL Oct. 19-20. NMFS chief Bill Fox attended and participated in the discussions. Agenda items included: the new Fishery Conservation Amendments of 1990; administration policy on gear regulation and bycatch; and implementation of recommendations, submitted to NMFS by NCMC President Chris Weld, for improving U.S. preparation for and participation in international fisheries negotiations.

ICCAT Recommendations. The NCMC presented its recommendations for the U.S. position at the upcoming meeting of ICCAT, which implements Atlantic-wide regulations for tunas and billfish. In an Oct. 24 letter to Carmen Blondin, Deputy Asst. Secretary for International Interests and head of the U.S. delegation, the Coalition recommended setting a zero quota for Atlantic bluefin tuna in 1991, closing the Gulf of Mexico to indiscriminate longlining during the giant bluefin spawning season (Jan.-May), a subtantial decrease in swordfish landings beginning in 1991, a greater commitment to collecting data on billfish catches throughout the Atlantic, an accelerated program to assess the condition of yellowfin tuna stocks, initiation of a shark program, and a ban on drift net fishing for all species under ICCAT authority.

Congress, legislation was approved greatly expanding the Coastal Barrier Resources System (CBRS). H.R. 2840 adds 819,000 acres of valuable coastal wetlands and nearshore habitat to the system, nearly tripling the amount of fragile coastline protected from unwise development. Designated areas are ineligible for federal development incentives, such as flood insurance and construction subsidies. The NCMC, as part of the national Coast Alliance, supported CBRS expansion to preserve irreplaceable fish and wildlife habitat.

Florida Bans Pelagic Drift Nets. The NCMC joined Florida conservation groups in supporting a statewide ban on fishing with drift nets. Nets up to 3 miles long are being used off the north FL coast to catch sharks. At a Nov. 8 hearing, the Marine Fisheries Commission (MFC) considered outlawing drift nets as part of a new comprehensive gear policy. Although

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they did not enact a total ban, the MFC did vote to limit all nets to a maximum 6" mesh, a rule that will close the shark fishery and eliminate any pelagic drift netting in state waters.

California Votes No on Gill Nets, Too. The people of California went to the polls Nov. 6 and voted against the use of gill nets in state waters off the southern coast (gill nets are already illegal in central and northern California). Proposition 132 amends the state constitution to prohibit the use of gill or entanglement nets 3 miles from shore as of Jan. 1, 1994. The non-selective nets kill sea lions, harbor seals, porpoises and gray whales, as well as numerous species of non-target fish. Displaced netters will be compensated from funds collected through a new sportfishing stamp. The NCMC-Pacific Region helped raise signatures needed to get the initiative on the ballot, and campaigned actively for its passage.

Striped Bass. In the wake of the dismal showing of striped bass on their Chesapeake Bay spawning grounds this summer, the NCMC asked the Atlantic States Marine Fisheries Commission to consider re-instituting the Interstate Fishery Management Plan for Striped Bass at its Nov. meeting. The plan features a moratorium on directed fishing for striped bass in the Chesapeake and a 37" minimum size coastwide. We also asked the 12 member states to agree to keep these measures in place until there are three successful spawning seasons in a row.

PLANNING THE FUTURE OF BILLFISH, PART 2. The second volume of the proceedings of the International Billfish Symposium is now available from the NCMC. Part 2, "Contributed Papers," is a collection of 29 scientific papers on stock structure, migratory behavior, age and growth studies, and socio-economic issues relevant to billfish management. Part 1, published earlier this year, contains 31 papers on the recreational and commercial fisheries, status of the stocks, and national and international efforts to conserve billfish. Both volumes are hardcover, $30 (plus $1.50 shipping) each, and can be ordered separately or together.

Feds Close Redfish Fishery in Atlantic. NMFS approved measures prohibiting possession or harvest of red drum in federal waters from NJ to the Florida Keys, effective Dec. 11. The NCMC had supported the redfish plan, prepared by the South Atlantic Council, as necessary to protect the offshore spawning stock, reduced by overfishing to only 1/10th of the size needed to support a healthy fishery. The plan also asks states to reduce fishing pressure in nearshore waters to allow more juvenile red drum to survive and recruit to the breeding stock.

Norcross Supports Management Project. The Norcross Wildlife Foundation has awarded the NCMC a grant in support of our 1990-91 Tuna Management Project. The Coalition is developing a range of options for improving conservation of tuna and associated pelagic species.

Longline Bycatch in the Gulf of Mexico. After receiving reports of gulf longline fishermen *intentionally* killing billfish before releasing them, a blatant violation of federal law, the NCMC on Oct. 29 formally asked NMFS to investigate. The reports have since been confirmed, in a recently released study of gulf longlining conducted by Lousiana State U. and the LA Dept. of Wildlife and Fisheries. "The billfish by-catch has increased tremendously over the past year," the study reveals, "and mortality rates were very high because most of the Asian-American crews shot or clubbed these fish to death to retrieve their $0.75 hooks." The longline sets observed, averaging 21 miles long with 500 hooks a piece, were extremely wasteful. Half the total catch was discarded, with 65% of these fish dead, including blue and white marlin, sailfish, yellowfin tuna, swordfish and shark. Over 1/4th the dead discards were billfish.

Legal Options for Reducing Bycatch. The NCMC has produced a position paper reviewing the "Legal Options for Regulating Bycatch in Marine Fisheries under the Magnuson Fishery Conservation and Management Act." Copies are available upon request.

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NCMC SEEKS TO BAN ALL DRIFT NETTING

The drift net has been described as a wall of death, a deadly underwater web. Fishing with the massive nets has been likened to strip mining the seas. Such descriptions are well-earned. An unparalleled blend of ruthless efficiency and indiscriminate killing sets drift nets apart from other types of commercial fishing gear. "Drift netting," says National Coalition for Marine Conservation executive director Ken Hinman, "is one of the most destructive and wasteful methods of fishing ever devised."

Outrage over drift netting is worldwide. In December 1989, the United Nations adopted a resolution calling on all nations to stop drift netting on the high seas by 1992. This year, the U.S. Congress is moving to outlaw drift net fishing within the U.S. 200-mile zone. Both these bans, however, pertain to "large-scale" drift nets only, which Congress defines as nets 1½ miles or longer. This seemingly arbitrary distinction just happens to exclude the shorter nets used by American fishermen in our coastal waters. Although these nets also cause serious conservation problems, particularly the slaughter of non-target fish and animals, there is no federal law to prohibit their use, or to prevent the expansion of drift netting into other U.S. fisheries. Because the NCMC believes drift nets are an unacceptable form of fishing, we are working for a total ban on drift netting in U.S. waters.

WHAT IS A DRIFT NET?

A drift net — also known as a drift entanglement net — is a gill net composed of a panel or panels of webbing, suspended vertically in the water to depths of 75 feet and more and floating freely with the current. The nets, or strings of nets, stretch from 1 to 30 miles, and fish passively, ensnaring fish as they swim into the webbing. Most modern drift nets are made of monofilament mesh and are virtually invisible to the animals that encounter them. (Some, made of nylon twine, are painted a dark color and fished at night.) Fish too big to pass through the mesh snag their gills and are unable to move forward or wriggle out backward. Others collide with the wall of net and become entangled as they struggle to continue on their way.

Drift nets are used to capture a variety of fish, primarily those pelagic species which swim in loose configurations (as opposed to tight schools). In the Pacific, where the nets are more widely used, fleets target salmon, squid, billfish, herring, swordfish, tuna and shark. In the Atlantic, drift nets are used to intercept migrating salmon on the high seas, and to capture billfish off Venezuela. American fishermen use drift nets to catch shark and swordfish off southern California, shark and king mackerel off the coast of Florida, and swordfish in New England.

Commercial fishermen like drift nets because they are lightweight, inexpensive and durable, and are capable of catching large numbers of fish with a minimum of effort. One small vessel and crew can carry, set and tend several miles of net. In the world's largest and most notorious drift net fishery — the North Pacific salmon and squid fisheries operated by Japan, Taiwan and South Korea — an estimated 1,500 vessels drift 20,500 miles of net each night of the fishing season.

THE CASE AGAINST DRIFT NETS

Drift nets are a nightmare for other fishermen, fishery managers, fish stocks, and marine life in general. To state the case against drift nets is to recite a litany of abuses of the ocean and its living resources:

Excessive By-Catch. Because they are non-selective, drift nets routinely catch and kill an astounding number of non-target fish and wildlife. One study revealed that on average one-third of the total number of fish caught in drift nets are non-target species, most unwanted and discarded dead. Tens of thousands of marine mammals, including porpoise, seals, turtles and whales, and hundreds of thousands of diving seabirds, die in driftnets every year.

Overfishing and Waste. The number of target fish killed and lost before or during retrieval of the nets is often equal to and may even exceed the catch landed. This fall-out, euphemistically termed *"non-catch mortality"* by the industry, contributes to the depletion of fish stocks without benefit to either fishermen or society.

Ghost Fishing. Drift nets, when abandoned or lost, continue to indiscriminately and wastefully kill marine life for an unknown period of time. The persistent plastic materials of which most nets are made are non-biodegradable, and cease fishing only when they sink to the bottom under the weight of their "ghost" catch.

Unfair Allocation. The use of highly efficient drift nets discriminates against the users of less efficient, more conservative, gear types. Stocks of fish are locally depleted, or fishing grounds are pre-empted by the miles of net stretched beneath the surface of the water.

Poor Quality Catch. A high percentage of the drift net catch is net-marked or otherwise damaged. These fish are sometimes unmarketable, or fetch lower prices and diminish the quality of fish available to the public.

The NCMC is a private, non-profit organization which promotes the conservation of ocean resources and protection of the marine environment. *Ocean View* is published periodically to foster public awareness and understanding of important marine conservation issues.

Hazard to Navigation. The lengthy nets, stretching unseen for miles, are a navigational hazard, becoming entangled in the propellers of other vessels. Crewmen have been seriously injured and even killed attempting to clear the nets from fouled propellers.

DRIFT NETS ARE A THREAT TO U.S. COASTAL RESOURCES

The practice of drift netting is under attack from conservation-minded fishermen and environmentalists wherever the gear is being used. But while the U.S. government has been making pronouncements and declarations against the scurge of drift netting on the high seas as practiced by foreign fleets, our own arbitrary and inconsistent policy has permitted the use of drift nets by American fishermen to grow in recent years.

Beginning in 1985, up to thirteen vessels using strings of monofilament drift nets 1-3 miles long have caught over half the annual commercial quota of Atlantic king mackerel, squeezing out hundreds of traditional handline fishermen. A 1987 National Marine Fisheries Service study showed that for every two mackerel landed in this fishery, one fish (e.g., amberjack, barracuda, shark, sailfish) is killed and discarded. It is estimated that the fall-out rate is similar; that is, one-third of the mackerel killed are never landed. Accidental killings of sea turtles, as well as lost nets, have also been documented. As an outgrowth of this fishery, Florida fishermen have recently begun targetting sharks with drift nets.

In 1988, New England fishermen switched to indiscriminate drift netting as the Atlantic population of swordfish declined due to years of overfishing. Today, about fifteen boats drift nylon mesh nets, typically over a mile long and 75-100 feet deep, at night. Regular incidental captures of porpoise have been reported, in addition to large numbers of sharks and bluefin tuna, a protected species.

The authority for regulating drift nets and other fishing gear in offshore waters is the Magnuson Fishery Conservation and Management Act, which created eight Regional Fishery Management Councils to develop plans to manage fishermen and conserve fishery resources within 200 miles of shore. According to the Act, such plans may contain measures to "prohibit, limit, condition, or require the use of specified types and quantities of fishing gear..."

The Atlantic Region Councils have consistently proposed prohibitions on drift nets for fisheries under their jurisdiction, citing the impact of the nets on traditional fishermen, overexploitation, waste and by-catch. The National Marine Fisheries Service, on the other hand, contends that in most cases, drift nets create allocation, not conservation, problems.

RECENT PROGRESS

The NCMC has been working with other concerned fishing and conservation organizations in support of prohibitions on drift nets, and we're finally beginning to see results. On March 15, 1990, the Secretary of Commerce for the first time approved a ban on drift nets in the South Atlantic coastal migratory pelagics fishery (which includes king and Spanish mackerel, cero, cobia, little tunny and dolphin). This was a 180-degree shift in policy, since the Secretary, on the advice of NMFS, had twice before rejected similar proposals (in 1988 and 1989). It also reflects the philosophy of the new NMFS director, William W. Fox, Jr., a marine scientist with a strong conservation background.

Still, the measure does not affect drift netting for swordfish or sharks, nor does it prevent fishermen from gearing up for any other species, tuna for example. Without a consistent national policy on drift nets, the use of this destructive gear will have to be addressed one fishery at a time.

Some states are also wrestling with the problem. In California, fishermen have been using drift nets to catch thresher and mako sharks since 1977. The by-catch has included swordfish, sea lions, and gray whales. The state of California has imposed some restrictions, such as a permit and reporting requirement, but entanglements continue to occur. A bill to ban all types of gill nets, including drift nets, in state waters (both Hawaii and Florida already ban drift nets) failed to pass the state legislature last year.

WHAT THE NCMC IS DOING

The National Coalition for Marine Conservation is working for a total ban on all drift netting in U.S. waters. Our goal is to rid the ocean of this wasteful and destructive practice. In every instance, a viable, resource-friendly alternative to drift netting exists.

We are asking Congress to amend the Magnuson Act this year to prohibit all drift nets, regardless of length. Meanwhile, we continue to actively support anti-drift net amendments to the Atlantic swordfish and other fishery management plans. The NCMC-Pacific Region helped start a gill net monitoring program to report and document entanglement of whales in California. The group is also supporting a state-wide referendum to outlaw drift nets within three miles of the southern California coastline. This initiative would force the state legislature, which has authority over gear, to resolve the problem.

Finally, we are urging NMFS to expand research and development of more selective methods of commercial fishing to replace those, like drift nets, which take a substantial by-catch of other species.

For more information on how to join and support the NCMC's efforts on this and other marine conservation issues, write:
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INTERNATIONAL COMMISSION MUST CONFRONT DECLINING ATLANTIC FISHERIES

ICCAT Preview, Fall 1990

The United States, at the urging of conservationists, is taking a more activist role in the management of large pelagic fish under domestic laws. The Atlantic Billfish Plan was implemented in 1988, swordfish and shark regulations are pending, and Congress is on the verge of extending U.S. authority to include fishing for tunas. Still, the migratory nature of these fish requires that we continue to seek the cooperation of other nations in achieving ocean-wide conservation programs to complement our own.

The record of worldwide cooperation in conserving large pelagic fish, however, is a disappointing one. For one thing, the Pacific doesn't have an international body to collect data, assess stocks, and regulate fishing pressure. In the Atlantic, the International Commission for the Conservation of Atlantic Tunas, or ICCAT, does have the authority to recommend measures to manage fishing for tunas and billfishes, but lacks the ability to enforce them. "The effectiveness of ICCAT as a management mechanism," National Coalition for Marine Conservation President Chris Weld, a member of the ICCAT advisory committee, points out, "depends both on its ability to make wise recommendations and on the willingness of the harvesting nations to adopt them." ICCAT has historically come up short in each respect.

Conservation has never been ICCAT's guiding star. Though the word is featured prominently in the Convention's title, it appears virtually nowhere else in the text of Annex 1, which describes the purposes and functions of ICCAT. Moreover, most of the language in Article VIII of Annex 1, pertaining to the Commission's responsibility to recommend fishing controls, is devoted to explaining how a member nation can exempt itself from compliance. Consequently, recommendations are watered down so as to be politically palatable to all affected nations.

CHANGES NEEDED TO MAKE ICCAT EFFECTIVE

Nevertheless, ICCAT is the only existing mechanism for international cooperation in the Atlantic. It does have the potential to become a more effective instrument for conservation, *if* certain changes are made, both in the structure of ICCAT itself and in the way the U.S. participates in it.

To begin with, ICCAT needs to broaden its membership to include all nations harvesting tunas, swordfish and marlin in the Atlantic. In its present make-up, some major players are missing; Taiwan, for instance, even though that Asian fishing power is expanding its Atlantic longline fleet and reportedly introducing drift nets. Most Caribbean island nations are not members, either, though the region's economy depends directly on the health of its coastal fisheries. ICCAT needs to accommodate that region's interest in protecting its resources from depletion by foreign-based fishing fleets. Lastly, each signatory to the ICCAT treaty should swear to abide by the commission's recommendations, without exception.

Those are long-term goals requiring amendments to the ICCAT treaty, and which the U.S. State Department should pursue through diplomatic channels. In the meantime, the U.S. can do much to enhance the effectiveness of ICCAT by improving the quality of its own participation, including how it prepares for the annual session.

This country's interest in ICCAT issues tends to seesaw during the course of a year, peaking in the months before the fall meeting and dropping off soon afterward, not to rise again until the next year's meeting approaches. This reflects our lack of any long-range goals or, more significantly, a long-range plan to realize those goals.

The U.S., through the National Marine Fisheries Service (NMFS) in consultation with the three U.S. Commissioners to ICCAT and their advisory committee, should produce a clear statement of our national objectives for conserving highly migratory species, in order of priority. We should prepare a national research plan for obtaining the scientific information necessary to support the attainment of U.S. fishery objectives. And we should convene periodic meetings of the U.S. delegation and advisors throughout the year, beginning as soon after the annual ICCAT meeting as possible, to review and assess what transpired and begin preparing for next year.

AGENDA FOR THE 1990 MEETING

The next meeting of ICCAT will be in Madrid, Spain, on November 12-16, 1990, and the Commission will have a full plate of issues to address, each of paramount importance to American fishery interests: the continuing failure to reverse downtrends in Atlantic bluefin tuna; severe depletion of swordfish stocks; increasing catches of billfish; and grave concerns about the fate of shark populations.

Tunas: Since its inception in 1969, ICCAT has focused almost entirely on tunas, and even then only in time of crisis. Originally, the Convention was to have been limited to tunas; however, the U.S. successfully argued that swordfish and billfish were just as migratory, were caught in association with tuna fishing, and were also showing signs of stress from overfishing. They were added as "tuna-like species." Still, the high volume/high value tuna fisheries receive most of the attention, at the expense of the other pelagics.

The impetus for the ICCAT treaty was the rapid development of purse seine and longline fishing for bluefin tuna in the

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1960s. It's therefore ironic, and suggestive of ICCAT's effectiveness to date, that twenty years later the bluefin remains the most threatened species under ICCAT jurisdiction. The conservation program begun in 1981 is clearly not bringing about a recovery, but instead keeping the bluefin fishery in a perpetually depressed condition. Spawning stock size is still only a quarter of what it was in 1970. The number of small fish also remains dangerously low, while catches of juveniles are on the upswing.

The U.S. should seek to cut the annual quota for the western Atlantic of 2,660 tons — shared by the U.S., Japan and Canada — by at least half. That would mean reducing the U.S. allocation from 1,529 tons to 764.5 tons. This could be achieved most fairly by temporarily eliminating the purse seine fishery — in which about 40% of the total U.S. quota is taken by five net boats — and tighter controls on by-catch in the domestic longline fisheries for yellowfin and bigeye tuna.

Other stocks of tuna, most notably yellowfin, are under mounting pressure and may already be over-exploited. In the Gulf of Mexico alone, landings exploded from 27,000 pounds in 1981 to 17,300,000 pounds in 1988. The Commission should accelerate its efforts to analyze existing information on the tropical tunas, expand the data base, and assess the condition of yellowfin and other tuna stocks with an eye toward management.

Swordfish: The western Atlantic stock of swordfish is nearing the same sorry condition as the bluefin tuna, yet no limits on fishing have been implemented. According to the ICCAT Standing Committee on Research and Statistics (SCRS), the adult spawning stock is less than a third of the 1978 level and the average size of fish is falling fast, as is catch per unit of effort. Last year, the SCRS advised the Commission to at least cap fishing effort, while the U.S. delegation asked its fellow members to consider cutting catch by 10-20%. Neither proposal received much support, and Spain, which along with the U.S. is the major harvester, rejected the notion of limits out of hand.

The U.S. Fishery Management Councils are preparing to reduce the domestic catch severely, possibly by as much as 78%. If this action is taken prior to the November meeting of ICCAT, it would strengthen the position of the U.S. delegation greatly by demonstrating the seriousness of the situation with action rather than mere words. We should press Spain and other ICCAT nations to initiate substantial reductions in catch beginning with the 1991 fishing season.

Billfish: By far, the majority of billfish killed by fishermen are taken incidental to the commercial longline fisheries. Increased longlining for tuna and swordfish, particularly in the Caribbean and the Gulf of Mexico, has caused a sharp increase in the by-catch mortality of white marlin, blue marlin and sailfish. Those hooked in the U.S. zone must be released (on average, 1 of 2 fish survive), while many of the billfish caught in the Caribbean, by a sizable fleet of U.S. and foreign vessels, are kept and sold locally or frozen for shipment abroad.

The fact that billfish are primarily a non-target species makes assessing fishing effort and the status of the stocks problematic. However, they are thought to be at least fully-exploited if not overfished. American recreational fishing interests were successful in getting ICCAT to initiate a research program several years ago, with port samplers and observers aboard some longliners in order to get a handle on the extent of billfish mortality. But the program has been effectively a U.S. effort, with NMFS scientific support and private funding by The Billfish Foundation and others. Realistically, the prospect of ICCAT taking action to protect billfish any time soon is mighty slim. Nonetheless, the Commission has an obligation to make a greater commitment to collecting and analyzing catch and effort information so we will have a basis for effective ocean-wide management when the time comes.

Sharks: Under the current ICCAT agreement, billfish fall under the rubric of "tuna-like species". Oceanic sharks do not, even though they are highly migratory and are routinely caught in tuna fishing operations, the same reasons billfish were added to the Convention. More importantly, shark populations are being exploited heavily throughout the Atlantic, and due to their slow growth and low reproductive rate, they are in imminent danger.

The U.S. Secretary of Commerce is recommending emergency rules to prohibit killing sharks for their fins, a major contributor to shark mortality, while other limits on American fishermen are being considered. Another major contributor to shark deaths is the tuna longline fisheries. Because sharks are a wide-ranging pelagic species, routinely caught along with the species under ICCAT authority, the Commission should begin gathering information on incidental shark catches and developing options to reduce the harvest in all areas.

Drift Nets: The United Nations General Assembly passed a resolution in December 1989 calling for an end to large-scale drift netting by 1992 because of its indiscriminate destruction of marine life. Although the action was prompted by high seas netting in the Pacific, recent evidence that the miles-long, monofilament entanglement nets are now being used in the Atlantic demands that ICCAT take a stand. The U.S. delegation should petition the Commission to adopt a prohibition on the use of drift nets to catch those species under its jurisdiction.

SUMMARY OF RECOMMENDATIONS

The National Coalitition for Marine Conservation is urging the United States government to seek, at the next meeting of the International Commission for the Conservation of Atlantic Tunas: a substantially lower quota for bluefin tuna; a proactive strategy for conserving other tuna species; an Atlantic-wide reduction in swordfish harvest; an expanded billfish research program; a broadening of the ICCAT data collection program to include sharks; and a resolution to prohibit the use of drift entanglement nets.

Furthermore, we are recommending the leadership of the National Marine Fisheries Service take immediate steps to improve future U.S. involvement at ICCAT. NMFS needs to better prepare for the annual meetings, particularly in regard to the quality of the scientific basis for advancing our position. And the U.S. delegation must take a more aggressive posture on behalf of our national conservation objectives. The U.S. has long been a lone, albeit reluctant, voice for conservation at ICCAT, the moving force behind what little action it has taken to date. It's a leadership role we should assume more willingly, and with a greater resolve and commitment than we have shown thus far.

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THE FISHERY CONSERVATION AMENDMENTS OF 1990

Congress Bungles Chance to Strengthen the Magnuson Act

The recently concluded Congressional review of the Magnuson Fishery Conservation and Management Act of 1976 exemplified all that's wrong with the way marine fisheries are managed. In other words, Congress put politics ahead of conservation.

The primary purpose of the Magnuson Act, which regulates fishing within our 200-mile offshore zone, is to prevent overfishing. But in the decade and a half since the Act went into effect, nearly all of our coastal fish stocks have been reduced by overfishing, some severely. Obviously, something's not working. The 101st Congress had the opportunity to re-affirm that conservation, not reckless exploitation, is the law of the land and amend the Act accordingly. Instead, with a few notable exceptions, the lawmakers caved in to special interests, giving only passing consideration to what's in the long-term best interest of the resource and the fisheries in general.

The resulting legislation, "The Fishery Conservation Amendments of 1990," signed by President Bush on November 28, re-authorizes the Magnuson Act through 1993. It contains some good provisions, some very bad ones, and a vast gray area in between, the implications of which will be understood only when the smoke clears and the Secretary of Commerce and the Regional Fishery Management Councils attempt to implement the new law.

The National Coalition for Marine Conservation believes that, taken as a whole, "The Fishery Conservation Amendments" will not substantively improve the nation's ability to conserve and manage marine fisheries, and will actually make that job more difficult in some cases. Given the precarious state of our marine fisheries, and the need for a stronger national commitment to conservation, we are not just disappointed, but greatly disturbed. What follows is a closer look at some of the most significant changes in the law, and their possible impact on fisheries management.

The Regional Councils

Because they are responsible for drafting fishery management plans and are the public's direct link to the decision-making process, the eight Regional Councils take most of the flak for the system's failures. How someone rates the performance of the Councils, however, depends on what they want them to do — or not do. Generally speaking, the Councils are too slow in coming to terms with declining fisheries and the need to reduce fishing effort. But when they do, conservation measures are difficult to implement because they are reflexively and vigorously opposed by the fishing industry.

The industry views the Councils as the enemy, dominated by insensitive bureaucrats and recreational fishermen. (Actually, commercial fishermen hold a plurality of seats on the Councils nationwide.) During re-authorization of the Magnuson Act, industry lobbyists pressed Congress for changes in council membership criteria that would mandate the selection of more commercial fishermen or their representatives. They succeeded in getting such language into the House bill.

The NCMC objected to any changes in the appointment of Council members that would result in an advantage for any one user group over another, or that encouraged members to vote as representatives of resource users instead of as stewards of a public resource, which is what they are. After several permutations, the final language approved by Congress is a compromise. The bill does not significantly alter membership criteria, but does direct the Secretary of Commerce to consider the make-up of each Council and ensure representation of the active fisheries in the region. That means more, not fewer, foxes in the henhouse. The Act was also amended to limit Council members appointed after January 1, 1986 to three consecutive terms (there is currently no limit).

Highly Migratory Species

Fishing industry claims of anti-commercial bias among U.S. managers also infected the debate over management of tuna, already the most controversial issue on the agenda.

The NCMC made extending domestic management authority to tuna, excluded from the Magnuson Act since 1976, our highest priority during re-authorization. Unregulated fishing for tuna has not only put tuna stocks at risk but has also inhibited conservation of other large pelagic fish, namely billfish, swordfish and sharks, which are routinely killed in the tuna longline fisheries.

In a dramatic reversal of longstanding U.S. policy, the amended Magnuson Act includes tuna, effective January 1992. This must be counted a significant victory, since it settles the issue of whether or not the U.S. has authority to manage tuna and regulate tuna fishing bycatch in our 200-mile zone — we now do — and focuses the debate on how we will use that authority.

Unfortunately, other new provisions, sponsored by Senator John Kerry (MA) on behalf of commercial fishing interests, are designed to dilute that authority. The bill transfers management of "highly migratory species" — tuna, swordfish, billfish and oceanic sharks — in the Atlantic from the Councils to the National Marine Fisheries Service (NMFS), where the industry clearly feels it will have more political influence. The Western Pacific Council, however, will retain primary responsibility for pelagic fisheries in the Pacific. In addition, the bill obligates NMFS to provide American fishermen with a "reasonable opportunity" to harvest quotas set by international organizations, such as the International Com-

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mission for the Conservation of Atlantic Tunas (ICCAT).

These two provisions were included over the strenuous objections of the NCMC and other conservation and fishery organizations. Just how they will affect management of highly migratory species remains to be seen, but the implications are worrisome.

For all its shortcomings, the Council system provides fishermen and the public an opportunity to participate in the development of fishery management plans. To take management away from the Councils and centralize it in a federal regulatory agency in Washington, for purely political reasons, is a dangerous precedent that does not bode well for the future of the Council system. Moreover, the attempt to bind U.S. action to the recommendations of ICCAT, or any other international body, undermines the conservation objectives of the Magnuson Act. If the object were to encourage more active pursuit of ocean-wide conservation agreements, we would applaud. But, according to Senator Kerry, the intent is to prevent the U.S. from enacting measures more stringent than those that apply to foreign fishermen.

For the U.S. to assert exclusive management authority over highly migratory species, yet at the same time be bound by international agreements, is blatantly contradictory, and the Administration has yet to say how this contradiction will be resolved. The first test will be swordfish. Amendment One to the Atlantic Swordfish Plan was recently submitted to the Secretary, calling for a more than 30% cutback in U.S. landings. Shortly after, ICCAT recommended reducing effort by 15%. It's not yet clear whether the U.S. will implement the Swordfish Plan, or feel constrained to enact the ICCAT program. Either way, the intent of the law is so vague that it will almost certainly be decided in court.

Bycatch

A major impetus for tuna inclusion was to control the substantial bycatch of other species in the longline fisheries. But here again, the new law is vague. It states that the U.S. must provide American fishermen with a "reasonable opportunity to harvest any quota or allocation authorized by an international agreement." Despite assurances that this should not be construed to tie the hands of U.S. managers when it comes to meeting the nation's conservation goals, it could inhibit efforts to resolve bycatch problems in the pelagic fisheries. For instance, if ICCAT should recommend a U.S. quota for yellowfin tuna, and it is determined that the bycatch of billfish in the yellowfin longline fishery must be reduced in order to prevent overfishing (which, in our view, it must), will NMFS be required to allow longlining for yellowfin to proceed regardless until the ICCAT quota is taken?

Beyond any doubt, the worst amendment in the entire package is one that forbids the South Atlantic and Gulf of Mexico Councils or the Secretary from imposing any restrictions on trawling for shrimp in order to reduce the incidental capture of fish until January 1994. Instead, NMFS will conduct a three-year research program to assess the impact of the shrimp trawl bycatch on fishery resources in the gulf and south Atlantic, with emphasis on those considered overfished, and develop new technology to reduce the bycatch.

This amendment, inserted at the last minute by Senator John Breaux (LA), was prompted by proposals to lower the shrimp trawl bycatch of red snapper, a fishery in a state of imminent collapse, through closures or use of a fish excluder device. In essence, the amendment grants the shrimping industry a wholesale exemption from regulation under the Magnuson Act for three years. The NCMC believes this is the most reprehensible abuse of Congressional power on behalf of a constituent industry since tuna were excluded from the original Act to accommodate the tuna industry.

Drift Nets

The most widely publicized fishery issue in 1990 was drift netting. Magnuson Act re-authorization afforded Congress a chance to take a tough stand against the "walls of death" but to do so without any political risk, by addressing only foreign vessels fishing the high seas.

The "Drift Net Act Amendments of 1990" (so called because they expand on 1987 drift net legislation) prohibit the use of drift entanglement nets 1.5 miles or more in length by any vessel in the U.S. zone, or by American vessels anywhere. There is no restriction on the number of nets a vessel may deploy.

The prohibition is important, because it will keep foreign drift net fleets out of our coastal waters as well as prevent U.S. fishermen from using large-scale nets. However, the smaller-scale drift nets currently being used by American fishermen to catch swordfish and sharks are exempted from the prohibition, despite mounting evidence of their destructiveness.

Habitat Protection

The Councils were given broader authority to protect fish habitat. They may comment or make recommendations on any activity undertaken by a state or federal agency that will impact the habitat of a managed species, and in the case of anadromous species (e.g., salmon or striped bass), responsible agencies must respond within 45 days with plans for mitigating or offsetting the damage. The NCMC unsuccessfully pushed to have this last requirement apply to all species, not just anadromous fish.

Limiting Access

Finally, a problem common to virtually every stressed fishery is overcrowding, i.e., too many fishermen catching too many fish. With few exceptions, marine fisheries are open access, meaning that anyone with a boat and gear can get a permit and join a fishery, regardless of its condition or the impact on other fishermen. Recognizing this, Congress drafted an amendment allowing for a temporary moratorium on new vessels entering fisheries that are overfished or likely to be. This was the first move toward a limited entry scheme under the Magnuson Act. Unfortunately, it was too controversial and was deleted from the final bill.

The NCMC supports the concept of limiting entry into fisheries where open access policies have failed, both for the good of the resource and those active in the fishery. We believe any such scheme should require that fishermen pay an appropriate economic rent for the privilege of exploiting a publicly-owned resource. We hope that Congress will re-visit this issue in the future, along with the other issues the lawmakers ducked this time around, and that when they do, they'll have the guts to say no to the special interest lobbies and look out for the long-term health of our ocean fisheries instead.

—K.H.

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