

**Blue Water Fishermen's Association
East Coast Tuna Association
Garden State Seafood Association
General Category Tuna Association
North Carolina Fisheries Association
Northeast Bluefin Tuna Association
North Shore Community Tuna Association Tuna Association
Stellwagen Bank Charter Boat Association**

March 26, 2009

The Honorable Richard Burr
United States Senate

The Honorable Susan M. Collins
United States Senate

The Honorable Christopher J. Dodd
United States Senate

The Honorable Kirsten E. Gillibrand
United States Senate

The Honorable Judd Gregg
United States Senate

The Honorable Kay R. Hagan
United States Senate

The Honorable Edward M. Kennedy
United States Senate

The Honorable John F. Kerry
United States Senate

The Honorable Frank R. Lautenberg
United States Senate

The Honorable Joseph I. Lieberman
United States Senate

The Honorable Mel Martinez
United States Senate

The Honorable Robert Menendez
United States Senate

The Honorable Bill Nelson
United States Senate

The Honorable Jack Reed
United States Senate

The Honorable Charles E. Schumer
United States Senate

The Honorable Jeanne Shaheen
United States Senate

The Honorable Olympia J. Snowe
United States Senate

The Honorable Sheldon Whitehouse
United States Senate

Dear Senators:

The undersigned organizations collectively represent the vast majority of participants engaged in commercial fisheries for Atlantic highly migratory species (HMS) in the U.S.

Our members and representatives have been dedicated, active participants for many years in all of the relevant domestic and international management fora including the National Marine Fisheries Service (NMFS) HMS Advisory Panel (AP), the U.S. Delegation to the International Commission for the

Conservation of Atlantic Tunas (ICCAT), the U.S. ICCAT Advisory Committee, and the many public regulatory processes used by the NMFS to manage Atlantic HMS fisheries. We are deeply committed to helping these fora and processes work to achieve effective resource conservation and to advance the economic interests of the United States.

We have reached the unfortunate conclusion that the domestic HMS management process is fundamentally broken and completely unable to respond to the changing dynamics of our fisheries. Poor time management of the regulatory process and a lack of political fortitude have combined to prevent the timely revision of overly restrictive and outdated management measures needed to meet the demands of the rapidly evolving fishery conditions unique to highly migratory internationally-shared fish stocks.

Similarly, the US approach taken internationally at ICCAT has proven to be equally ineffective in defending and pursuing U.S. interests. With very few exceptions (e.g. North Atlantic swordfish stock), US efforts at ICCAT have repeatedly failed to secure workable and equitable long term conservation programs or to achieve critical international compliance. With 25 years of first-hand experience we are convinced that the continued planning and execution of international HMS fishery negotiations at the NMFS and mid-level State Department levels cannot achieve U.S. objectives.

The failure of these international negotiations is due in large part to the lower stature of our NMFS and State Department negotiators within our government relative to their negotiating opponents. It is also due to their lack of negotiating leverage and high-level support from past Administrations that have failed to make US international fisheries objectives a sufficient priority. This U.S. situation contrasts starkly with the high priority given to fisheries production, food economy, and jobs by the European Community, Asian fishing nations, and even many of the developing nations such as Mexico, Belize, Senegal, and Morocco. The plain truth is that the U.S. is severely outgunned, outmaneuvered, and increasingly dismissed in these international negotiations by coalitions of nations formed specifically to thwart U.S. objectives.

It is now clear that this situation will soon result in substantial and potentially irreparable harm to Atlantic HMS resources, protected bycatch species, and our domestic fisheries, fishing families and coastal economies. We believe that we have fully exhausted all the options afforded us within this process. We feel strongly that NMFS actions and inactions with respect to Atlantic HMS are grossly inconsistent with the spirit and intent of Congress, as reflected in many provisions of the Magnuson-Stevens Act (MSA). This is particularly true with regard to the Atlantic HMS provisions set forth in MSA section 304(g) including subparagraph (1)(D) which expressly requires US fishermen to be provided a "reasonable opportunity to harvest" our ICCAT quotas. Unfortunately, our industries simply cannot afford to pursue a remedy in federal court. Our only remaining recourse is to appeal to Congress to intervene.

Swordfish

The north Atlantic swordfish stock was rebuilt under an ICCAT program that was developed at the initiative of the U.S. pelagic longline fleet and succeeded largely because of our fishermen's disproportionately large sacrifices. The U.S. pelagic longline fleet was also central to the development of bycatch reduction technologies that have become the global standard. Yet today,

hundreds of thousands of square miles of the most productive swordfish and tuna grounds in U.S. waters remain closed to this fishery. These closures, though not required under any ICCAT agreement, were intended to help rebuild the overfished swordfish stock and to reduce bycatch. Although these vast closures were established prior to the development of new bycatch reduction technologies as well as to the rebuilding of the north Atlantic swordfish stock, they remain in place today.

The consequence is that the U.S. cannot harvest its north Atlantic swordfish quota allocated by ICCAT. Although this quota is part of a scientifically-based sustainable yield for a fully rebuilt stock, our fisheries have been strangled by unilateral U.S. regulations that have prevented our fishermen from harvesting more than 50% of our quota year after year. In 2008 alone, at least 1,500 metric tons (mt.) of U.S. swordfish quota went unharvested. The domestic HMS management process has proven to be completely incapable of adapting to this reality. These circumstances have persisted **for years**, yet the U.S. pelagic longline fleet has not been provided with a reasonable opportunity to sustainably harvest swordfish and other readily available HMS resources. Despite our relentless efforts to work with NMFS to find solutions, there is no relief in sight.

Bluefin Tuna

Unfortunately, a very similar story has characterized our U.S. Bluefin tuna fisheries in recent years. The U.S. Bluefin tuna industry has been so smothered by archaic unilateral conservation regulations that it too is unable to harvest a very substantial portion of its scientifically-based ICCAT quota. NMFS has kept in place regulations that go far beyond what is mandated by the ICCAT plan to end overfishing and rebuild the stock. Fish size limits have been set well above the international requirement and bag limits, seasonal restrictions, and artificial barriers to fishing category participation have hobbled these fisheries year after year. Unrealistic incidental Bluefin landing limits have forced what remains of the U.S. pelagic longline fleet to discard valuable Bluefin tuna, even though U.S. landings have not even come close to attaining our quota.

As a result, the U.S. has not filled its ICCAT-mandated quota since 2003 and was only able to catch about 24% of the commercial Bluefin quota in 2008. This has wreaked economic ruin on the fisheries' traditional coastal support infrastructure. Incredibly, in recent years unused U.S. Bluefin quota has been partially transferred to Mexico, encouraging the development of substantial illegal fishing on closed spawning grounds in the Gulf of Mexico.

An important consequence of our failed domestic HMS management regime for swordfish and Bluefin tuna is that hard-earned traditional U.S. quota shares for these valuable stocks will be reallocated by ICCAT because our domestic management program has prevented us from fully utilizing them. Our quota shares will go to other nations that are in a position to put them to use by developing new fishing capacity or by selling the quota to the highest bidder. This will happen at the 2009 ICCAT meeting for swordfish and at the 2010 meeting for Bluefin tuna.

Those nations receiving our quota simply do not adhere to the stringent swordfish and Bluefin tuna conservation measures or the extensive bycatch reduction requirements placed on U.S. fishermen by our domestic regulations. Therefore, the perverse outcome of our unilateral regulatory strangulation of U.S. Atlantic HMS fisheries and consequent reallocation of U.S. quota shares to other

nations is that swordfish and Bluefin tuna conservation plans will be undermined and more sea turtles, marine mammals, and other protected bycatch species will be injured and killed.

Worst of all, many U.S. HMS fishery-related jobs will continue to be lost unnecessarily in communities up and down the coast at a critical time when this nation is facing its most severe economic crisis in our lifetimes. It is important to understand that a reallocation of our fishing quotas to other nations really equates to a reallocation of American jobs and incomes to other nations. These might not be the inevitable results if the new Administration takes seriously its responsibility to defend U.S. interests at ICCAT.

Recommendations

With respect to domestic HMS management, our representatives in the HMS management process have repeatedly presented recommendations to NMFS HMS Division for relatively modest, common sense revisions to domestic regulations that would enable our fishermen to use more of our sustainable ICCAT quotas. To date, NMFS HMS Division has been unresponsive to these recommendations. Most recently, they include the following:

- 1) Allow the current 3 fish per day bag limit on the Bluefin tuna General category to apply to each day of a multiple-day offshore fishing trip. Schools of giant Bluefin tuna are increasingly limited to offshore areas that cannot be accessed on day trips.
- 2) Reduce the minimum size for commercial sale of Bluefin tuna to 65 inches, a size still substantially above the ICCAT minimum practiced by all countries other than the U.S.
- 3) Allow charter boats to participate in both the General and Angling categories for Bluefin tuna on the same fishing trip.
- 4) Modestly revise the current incidental catch limit on Bluefin tuna in the pelagic longline fleet to convert dead discards to landings. Allowing U.S. pelagic longline fishermen to land instead of discard one or two more Bluefin tuna per trip (which are counted against the US quota) can make the difference between profit and loss-- bankruptcy and survival. It can also provide an incentive for swordfish vessel owners to make more trips and catch more of the unused U.S. swordfish quota.
- 5) Allow year round fishing as necessary by all Bluefin tuna categories until their respective quotas are filled.
- 6) Allow expedited research by longline vessels in selected closed areas, or portions thereof, using circle hooks and other proven bycatch-reducing fishing methods, training, and tools.

With respect to our international approach to ICCAT, we believe that the U.S. cannot effectively defend or pursue U.S. interests—including the protection of our U.S. Bluefin tuna and swordfish quota shares—without taking the following actions immediately:

- 1) Implement the provisions set forth in section 408 of the Magnuson-Stevens Reauthorization Act (MSRA) which requires the Secretary of Commerce to designate a Senate-confirmed senior official to personally represent the U.S. in all international fishery negotiations, including ICCAT. Based on our extensive experience at ICCAT, we believe first and foremost that this individual must have strong expertise and a record of success in international negotiations and substantial stature within our government and the international

community. The U.S. Delegation to ICCAT is replete with extensive fisheries science, management, and economic expertise which such an individual can easily access. What the U.S. needs is a strong negotiator with diplomatic skills in an elevated position of stature and authority that is on par with the Delegates from other ICCAT nations. This person must also have access to high levels within the Administration to gain the political support necessary to achieve US objectives.

- 2) Develop and implement an effective strategy to achieve US objectives including a serious effort to secure the support of other ICCAT member nations for U.S. interests. This requires a thoughtfully planned and aggressively implemented diplomatic effort at an elevated level within the U.S. government that must begin well in advance of each ICCAT annual meeting.

With this in mind, we ask that you write a letter to President Obama and follow-up, as necessary, to secure as soon as possible his nomination of the new international fishery negotiator discussed above, and to impress upon him the utmost importance of selecting someone who he will trust and empower to protect our international interests in Atlantic highly migratory resources.

We further urge you to insist that the leadership of NOAA/NMFS immediately undertake and expedite revisions to outdated HMS regulations that are preventing our Bluefin tuna and swordfish fishermen from catching U.S. ICCAT quotas.

The U.S. HMS fisheries need your help now. It is clear to us that what Congress intended is not being implemented and we are soon going to *permanently* lose our swordfish and Bluefin tuna quota shares. This is bad for the fish, terrible for U.S. fishermen and the U.S. coastal economy, and will lead to the loss of thousands of more jobs.

Thank you for your continued support of the U.S. fisheries for shared highly migratory fishery resources.

Sincerely,

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