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The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks

United Nations, New York City, July 12-30, 1993

Global fisheries – amazing facts

OVERFISHING

- 50 major world fish stocks are currently overfished.
- The world's marine catch has increased more than four times in the past 40 years – from 20 million tonnes in 1950 to 86 million tonnes by 1989. Global statistics now indicate that the global marine catch has peaked and may even be declining – a warning that the limits have been breached by too many boats chasing fewer and fewer fish.
- The United Nations Food and Agriculture Organisation (FAO) has classified almost every commercial fish species in every ocean and sea as "depleted", "fully-exploited" or "over-exploited".
- The FAO's figures reveal that stocks in four of the world's 17 major fishing regions are seriously depleted, while catches in nine others are declining.
- Most of the phenomenal one-third increase in world marine fisheries landed catches between 1980 and 1989 was due to increases in landings of only five species of fish – Alaska Pollock, Chilean Jack Mackerel, Peruvian Anchoveta, Japanese Pilchard and South American Pilchard.

MODERN TECHNOLOGY AND SCALE

- One of the world's biggest trawl nets could encircle 12 "jumbo jet" Boeing 747 aircraft at its opening. The net measures a mammoth 110 by 170 metres at its mouth. An even bigger trawl, now under construction in Iceland, will have a 30 per cent larger opening at its mouth capable of enclosing 16 jumbo jets.
- The fishing vessels used to haul trawl nets of such massive size require a diesel engine capable of generating up to 4,500 horsepower.

THE WASTE

- 20 per cent of all marine fish landed each year on fishing vessels worldwide never reaches the consumer, according to conservative estimates. It is instead discarded, most often dead or injured back into the sea. This waste of fish equates to the combined fish catches of Japan and the United States in 1990 – the third and fifth ranked fish producing nations in tonnes that year (approx. 16 million tonnes).
- In the Gulf of Alaska's pollock fishery, discard rates have reached almost 83 per cent of the total catch on observed vessels in some areas.
- In 1987, scientists estimated that 80 million cod may have been discarded in the cod fishery off the Norwegian north coast in 1986-87 because they were too small to market. The estimated waste was almost 100,000 tonnes.
- In some areas of the Gulf of Mexico, 20kg of fish are caught for every kilo of shrimp. Almost all of the bycatch is thrown back, either dead, dying, or likely to be consumed in its weakened state by predators. In some of the world's most wasteful fisheries, for shrimp, the ratio of bycatch to shrimp catch can reach as high as 30 to 1.

THREATS TO WILDLIFE

- An estimated seven million dolphins in the eastern Pacific tuna fishery have perished since the US tuna fleet began netting dolphins to catch tuna in 1959. About five million were from one species – the Northern Offshore Spotted Dolphin
- 25 per cent of tuna caught in circular purse seine nets set around objects floating in the ocean are thrown back overboard dead.

Amazing facts continued

- 50,000 kilometres of driftnet were set each night in the North Pacific during the 1980s. It came as no surprise, then, when official observer data gave yearly death tolls in the tens of thousands of marine mammals and up to three quarters of a million seabirds, as well as millions of non-targeted fish and sharks in the North Pacific driftnet fisheries.
- A 'Review of Driftnet Fishing in the South Pacific Ocean' by the South Pacific Forum Fisheries Agency concluded that "in the peak driftnet season (1988/89) the total catch of cetaceans [whales and dolphins] may have exceeded 23,000 in the South Pacific..." (a season lasting for only about five months).
- Japanese tuna longline vessels operating in the Southern Ocean kill an estimated 44,000 albatrosses annually. The long distance wanderers will often dive for the bait on the longline hooks, become hooked themselves and drown.
- The high seas driftnet fisheries operating in the North Pacific were estimated to have killed 21 different species of birds (eg tufted and horned puffins, crested auklets, murres, and short-tailed shearwaters) – an estimated 750,000 birds each year.
- In the Western Mediterranean, more than 20,000 juvenile loggerhead turtles are incidentally captured every year by the Spanish longline fishery. Four thousand of these are believed to die upon return to the sea.
- An estimated 48,000 sea turtles are caught annually by shrimp fishermen off the southern US coast. The US National Marine Fisheries Service estimates that, of this number, more than 11,000 turtles die each year.

THE IMPORTANCE OF FISHERIES TO HUMANITY

Food

- Over a billion people in Asia alone depend on fish and seafood as their major source of animal protein while approximately 60 per cent of people in developing countries generally derive 40 per cent or more of their animal protein from fish.
- Food production in the so-called developing countries will have to increase more than 60 per cent in the next 25 years to keep pace with population growth, according to FAO estimates. At the same time, FAO says that most of the world's wild fish stocks are already overexploited, and possibilities for expanding fish farming are limited.
- FAO predicts there will be a supply gap of up to 25 million tonnes of food fish by the year 2000, given the declining world fish catch and ever increasing demand. It is the poorer populations, particularly in the less developed countries, who will suffer first and be the hardest hit followed by the less affluent groups in the northern, industrialised countries.
- Only about two-thirds of global fish catch is actually consumed directly by humans. The rest, about 32 per cent of the reported global catch, is converted (reduced) into fish meal to feed cattle, chickens, even pen-reared fish such as salmon, as well as into fertilizer and oil.
- In Thailand, the amount of fish processed into animal food from reduction fisheries increased by 25 per cent from 680,000 to 910,000 tonnes in just one decade.
- About 45.5 kgs (100 pounds) of live fish is required to yield animal food sufficient to produce a half a kilo (one pound) of chicken or beef (a 100 to 1 ratio). Used as fertilizer, 91 kgs (200 pounds) of fish meal will yield little more than a kilogram (three pounds) of vegetable protein.

Amazing facts continued

Jobs

The biggest threat to sustaining jobs in fishing is overfishing itself.

- An estimated 12.5 million fishermen world-wide and their dependents comprise some 50 million people directly dependent on fishing for their livelihood. A further 150 million people are involved in the shore-based sector that services the fleets and processes the fish.
- 20,000 people working in the traditional cod fishery off Newfoundland lost their jobs when the Canadian Government closed down the fishery in 1992 in a desperate effort to protect what remained of the over-fished stocks.
- In New England in the United States, depletion of the areas groundfish stocks took a heavy toll on the economy. The reduction in annual landings of groundfish by 55,000 tonnes cost US$350m and 14,000 jobs.
- Iceland's marine scientists have recommended that cod catches in Icelandic waters should be drastically reduced to 150,000 tonnes for the 1993/94 fishing season. Economists said the recommendations of the state-run Marine Research Institute, if implemented, would lead to a three per cent cut in Iceland's Gross Domestic Product (GDP) in 1994. Iceland's cod catch accounts for about 30 per cent of the value of the country's total exports.

A BANKRUPT INDUSTRY

Too many boats and not enough fish – the formula for overfishing, environmental destruction, social decay and bankruptcy.

- There are over one million large scale – and twice as many smaller scale – fishing boats at work on the world's oceans and seas.
- The landed value of the global marine fish catch is worth some US$70 billion a year. Yet the global fishing fleet is a financial disaster. An FAO assessment reveals that the world's fishing fleet is losing over US$22-billion a year. In 1989, it actually cost the world fleet $92-billion to make back $70-billion.

Ann Leonard
Int'l Waste Trade Project

one poss: ban on xpts to non-OECD countries (excl. Mexico)

Can send smthg in advance?

The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks

United Nations, New York City, July 12-30, 1993

World fisheries

THE PROBLEM

There is a global fisheries crisis. Virtually every population of commercial fish species in every ocean and sea is depleted, fully-exploited or over-exploited. Unless nations move immediately on major reforms, the crisis promises increasingly harmful ecological, economic and social impacts. As part (but by no means all) of the global crisis, there are severe problems with the management of transboundary fishery resources in many areas of the world's oceans.

Transboundary fish stocks are those that migrate across or straddle the boundaries between Exclusive Economic Zones (EEZs) of coastal states and the high seas. Examples of these problem areas include the pollock fishery in the Doughnut Hole of the Central Bering Sea, the blue whiting and jack mackerel fishery in the east-central and south-east Pacific off the coasts of Chile and Peru, the cod fishery on the Grand Banks of Newfoundland off Canada's eastern coast, the New Zealand orange roughy fishery on the Challenger Plateau, and the continuation of high seas driftnet fisheries (in the Mediterranean Sea for example) despite a global moratorium against the practice.

The high seas are those areas of oceans which lie beyond the jurisdiction of nation states. They are vast areas where long-distance factory fishing fleets operate in an uncontrolled free-for-all, where the most powerful fishing vessels in the world compete for what fish remain. Where the high seas end, coastal states assume jurisdiction over those waters adjacent to their shores. The line marking the boundary between the two can extend as far as 200 nautical miles from the coastal state's shoreline.

Coastal states claim they are witnessing the over-exploitation of transboundary stocks within their EEZs because of fishing activities taking place on the high seas next to their zones. Coastal states also claim that overfishing of these stocks thwarts their efforts to conserve and manage stocks within their zones and has affected the economic viability of many coastal state fishery operations of these stocks.

Generally, however, the blame for declines in transboundary stocks lies with both coastal states and distant water fishing nations whose vessels fish the same stocks on the high seas. Very often it is the case that declines are the result of overfishing on both sides of the boundary by distant water fleets and by coastal states' vessels operating inside the EEZ.

Another major factor in stock declines in some fish species is the result of the failing by coastal states to protect vital coastal habitats of fish populations. Coastal states have an obligation to protect these vital habitats from the impacts not only of overfishing, but also pollution and inland and coastal developments threatening them. The loss of coastal wetlands, for example, is having a marked impact worldwide on the productivity of many fish species. Unfortunately, coastal states have a poor track record in protecting coastal marine ecosystems.

These factors represent serious gaps in the international legal framework governing transboundary fisheries. It is the purpose of the United Nations Inter-governmental conference to resolve these problems and to bring high seas fishing under an effective conservation and management framework.

HIGH SEAS FISHING PROBLEMS

The worldwide problems with high seas fishing activities affecting straddling and high migratory fish stocks of most concern include:

- The overcapitalisation of the fishing industry as a whole and its continued subsidisation by national governments.
- the overfishing of transboundary fish stocks.
- a failure on the part of regional fisheries organisations – where they exist – to manage these stocks, due primarily to a failure by nations to agree to conservation measures.
- a general lack of cooperation between coastal states and distant water fishing nations.
- the failure of distant water fishing nations to adequately regulate their fleets and, in particular, to undertake adequate surveillance, control and enforcement.
- the reflagging of fishing vessels by vessel owners so as to escape controls being enforced by flag states.
- harmful fishing practices – such as the use of large scale pelagic driftnets – which are causing large-scale ecological damage.
- the highly mobile and opportunistic nature of distant water fishing fleets which are able to fish one fishery to collapse and then move quickly on to another.
- the lack of complete scientific information but, more importantly, nations using the lack of scientific information to evade calls for conservation measures.
- the lack of onboard observers to monitor and report on the activities, catches and impacts of fishing fleets at sea.
- the global market in fish products which purchase fish without regard to their origin, form of capture, or environmental damage resulting by their extraction.
- the open-access "freedom of fishing" legal regime which prevails on the high seas that encourages overfishing.
- the impacts of high seas fisheries on coastal communities traditionally dependent on fishing which are being adversely affected by overfishing of transboundary fish stocks.

THE INTER-GOVERNMENTAL CONFERENCE

With several coastal states playing key roles in pushing for urgent action on transboundary fish stocks, the Rio Earth Summit's call for an intergovernmental conference set the stage for the UN General Assembly to agree, this past December, to convene the July 12-30, 1993 gathering. While numerous post-Rio conferences have been held in the past year, it is the first to address critical ocean issues since the Rio Earth Summit.

The conference is global in scope, and open to all nations to negotiate the future of straddling and highly migratory fish stocks. Moreover, most seasoned observers involved with the conference fully expect that there will be at least one more session – in the spring or summer of 1994 – with a "final" report presented to the UN General Assembly later that year. The conference is taking place against the backdrop of an acute world fisheries crisis affecting all oceans and seas, regardless of which side of the artificial boundary line the fish swim. It is the failure of governments and their fisheries management systems to limit what is taken from the seas, and to protect the marine environment from wasteful and destructive fishing practices which is under scrutiny. The conference is said to be the best opportunity in ten years to turn around the bleak scenario of world scale fisheries collapse.

The negotiators at the conference represent countries which can be divided broadly into two main camps –1 those coastal states currently affected by fishing on the high seas (such as Canada, New Zealand, Chile, Peru, many Pacific Island and other less industrialised coastal countries) and those states that have large distant water fishing fleets (such as Japan, and some nations of the European Community).Some states, for example the United States, Russia, and Venezuela, are caught in the middle, having interests both as coastal states and distant water fishing nations.

THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS)

One of the principal mandates of the Intergovernmental Conference on Straddling and Highly Migratory fish stocks is to work out agreements for the conservation and management of these stocks according to the concepts and principles set down in the United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS is an international legal framework which sets out, among other things, the responsibilities which nations have in exercising their sovereign rights to exploit living marine resources.

Nations whose vessels fish on the high seas, for example, must cooperate with coastal states in developing conservation and management measures when fishing on stocks which move between the high seas and the waters under national jurisdiction. Coastal states have the responsibility to protect marine wildlife species and their habitats within marine areas under their jurisdiction.

Unfortunately, there has been a general failure by some key states, particularly industrialised states, to ratify the Convention because of difficulties over the deep sea bed mining provisions of the Convention.

Nevertheless, its provisions on fisheries and the management of marine living resources are generally acknowledged as customary international law. In practice, however, the UNCLOS provisions on the high seas are not observed, and formal dispute resolution mechanisms are not in operation.

Despite several deficiencies in the Convention and the need to expand on a number of its provisions, the UNCLOS provides a valuable foundation for international cooperation in marine fisheries. A Law of the Sea Convention that was in force, widely adhered to, and with active dispute settlement mechanisms, might provide remedies for these conflicts over the fishing of transboundary stocks and bring effective global regulation to high seas fisheries generally.

GREENPEACE EXPECTATIONS FOR THE CONFERENCE

The unregulated and unmonitored nature of fishing on the high seas makes the whole question of sustainable, 'ecologically sound' fishing mute. The Inter-governmental Conference offers nations the opportunity to take bold steps to protect the oceans and marine wildlife from the damaging effects of overfishing.

Greenpeace is calling upon governments at the conference to commit to a number of basic reforms – reforms that will address, effectively, the highlighted listing of "High Seas Fishing Problems". At the same time, the reforms also must address the movement of transboundary stocks within zones of national jurisdiction. Moreover, given the global fisheries crisis, the participants can not afford to ignore responding, more broadly, to the need for fisheries reform throughout the world's oceans, regardless of political boundaries.

Perhaps most importantly, at the end of the conference – whether that end be this year, or next – Greenpeace expects governments to commit to reforms and agreements that are binding. Voluntary guidelines that then gather dust on some bureaucrat's office shelf will not be acceptable.

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GREENPEACE, NGOS DELIVER LIST OF DEMANDS TO AVERT GLOBAL FISHERIES CRISIS

NEW YORK, July 7, 1993--Greenpeace International this week added its support to a statement by more than 30 non-governmental organizations (NGOs) from around the world demanding urgent action by governments to reverse a serious and escalating global fisheries crisis.

The NGO Fisheries Statement is being presented to world delegates participating in the first Intergovernmental Conference on Straddling and Highly Migratory Fish Stocks at the United Nations (UN) in New York, July 12-30.

"An unprecedented environmental disaster faces the world's oceans, brought on by the uncontrolled expansion and the destructive practices of commercial fishing," said Greenpeace's Clif Curtis. "We are witnessing the destruction of the world's fish stocks and potentially irreversible damage to our ocean ecosystems and marine biodiversity. The consequences for millions around the world who depend on fish for their food and livelihoods are unthinkable."

The UN Food and Agriculture Organization (FAO) has classified virtually every commercial fish species in every ocean as "depleted, fully-exploited, or over-exploited."

"The FAO has warned that fish production from the world's oceans has reached or exceeded levels at which stocks can regenerate themselves," said Matt Gianni, Greenpeace's High Seas Fisheries Coordinator. "If government delegates fail to heed this warning and do not come up with effective, legally-binding actions, many fish populations will be wiped out."

"NGOs have found common ground in their desire to jointly develop a plan of action which we will call on governments meeting in New York to implement," Gianni said. "From the perspective of NGOs like Greenpeace substantial reforms are needed to change the way fisheries are now managed, or in most cases, mismanaged."

-more-

The NGO statement has been endorsed by environmental groups, fishers and fish workers' organizations, academics and others, and many more are expected to sign on. The statement calls for fisheries reforms including measures like the precautionary approach, ecologically sound fishing practices, social equity and basic human rights, transparency, accountability and public participation in decision making. Of overriding concern is the need for global fisheries conservation standards which protect stocks throughout their entire range.

One significant innovation called for in the NGO statement is a "Global Fisheries Conservation Fund" to provide support to less industrialized coastal countries. These funds would be paid for by fishing interests -- both States and private sector -- who fish in international waters. The fund would: 1) ensure implementation of an effective management regime for migratory fish stocks and 2) seed conservation and habitat protection initiatives designed to restore and protect fish stocks throughout their range.

Government delegates to the conference will negotiate the concerns expressed at last year's Earth Summit. Coastal fishing States, in particular, expressed grave concerns that the over-exploitation of global marine resources by nations with long-distance fishing fleets adversely impacts their resources. The UN meeting is a result of governments agreeing in Rio to convene a conference to address these and related issues and to promote the implementation of the provisions of the UN Convention on the Law of the Sea (UNCLOS).

UNCLOS is likely to enter into force in the next two years; 56 of the 60 ratifying nations are already on board. With UNCLOS as the legal framework for the UN negotiations, the NGO statement calls for the creation of effective international mechanisms to deal with issues such as fisheries monitoring, data collection, enforcement and dispute resolution. The UN conference will be the most important fisheries negotiations since UNCLOS was opened for signature in 1982.

Greenpeace has campaigned worldwide to persuade governments to take affirmative action to stop overfishing and destructive fishing practices and to protect the long-term viability of the marine ecosystem.

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Plundering the Seas

Last year's Earth Summit in Brazil produced few concrete agreements but one transcendent lesson: The earth's most serious environmental problems know no national boundaries; they require a global response. But if the just-concluded U.N. conference on threatened fisheries is any guide, a collective response to common dangers remains a distant dream. Nationalism is still king.

The conference, one of several follow-up sessions mandated at Rio de Janeiro, drew 150 diplomats and a small army of lawyers, marine biologists and industry officials. They arrived in general agreement that many species — including dinner-table staples like cod, tuna and mackerel — are steadily being wiped out by overfishing. They left in almost total disagreement as to who is to blame or how to manage and propagate the fish that are left.

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It's hard to imagine that the oceans will not yield in perpetuity enough protein to satisfy humanity's appetite. But the sea, too, is a finite resource, a fact that has finally penetrated the upper reaches of international agencies whose job it is to monitor supply and demand.

Chief among these is the United Nations Food and Agriculture Organization, which now warns of crisis after years of encouraging the overfishing that helped cause it. It applauded when nations subsidized industry to build highly mechanized fleets to rake the oceans clean. It cheered when the fish catch quadrupled from 1950 to 1990. And it paid little attention to the small coastal communities whose stocks were ravaged and whose voices are rarely heard at big conferences.

Yet all the while the F.A.O.'s statisticians were churning out data suggesting the absurdity of the very situation the F.A.O. applauded. By 1989, for example, the value of the worldwide catch had reached a record $72 billion. But the cost of operating the world's three million fishing vessels was $92 billion. The difference was the subsidy governments provided to sustain a self-defeating assault on an increasingly unsustainable resource.

That very same year, the catch began gradually to decline. The F.A.O. now classifies virtually every commercial species as depleted, fully exploited or overexploited. It further concedes that overfishing has disrupted the food chain and caused massive collateral damage to species like porpoises, sea turtles and whales.

If this vicious cycle is now obvious, why is nothing done? The main reason is greed, which makes shared sacrifice impossible and leads to diplomatic finger pointing.

On one side are coastal countries like Canada, New Zealand, Argentina and Australia, which control the rights to fish within 200 miles of their shores. On the other are so-called "distant water" countries like Japan, Spain, Russia, Taiwan (and to some extent the U.S.), whose long-range fleets catch most of the world's fish. The coastal nations say huge factory ships damage breeding grounds and deplete stocks in territorial waters. The distant-water countries blame mismanagement by the coastal states.

There's truth on both sides. In 1992 Newfoundland's small-boat cod fishery went belly-up, costing 20,000 jobs. One cause was overfishing by foreign fleets just outside the 200-mile limit. But another problem was Canada's own encouragement of high-technology fishing and its failure to set sustainable catch levels.

The U.N. group will convene again. Having acknowledged the crisis, its task now is to agree on limits and establish a system of surveillance and enforcement. That's a big order, but the consequences of inaction are predictably disastrous.

Despite Gaps, Data Leave Little Doubt That Fish Are in Peril

In some cases, species are nearing extinction.

By DAVID E. PITT

UNITED NATIONS

REPORTS of threats to the global environment often set off waves of skepticism, much of it from scientists who argue that knowledge about complex phenomena is far too limited to justify jumping to apocalyptic conclusions. The sky, they insist, is not falling.

By contrast, few have dismissed the latest reports about the dire state of the world's fisheries, despite what experts say are the extraordinary difficulties of gathering data.

Scientists, industry experts and government officials agreed at a United Nations conference last week that the evidence undeniably showed that overfishing and the destruction of habitat have caused alarming drops in marine populations; the problem is global, with implications for future food production and the economic stability of the countries dependent on fishing, and on the whole, the situation is getting worse, not better.

"I don't think there is any doubt that there are very, very severe problems out there," said Mary Harwood, a biologist and fisheries policy expert with the Australian delegation to the conference. "There is already a great deal of information about the major stocks that are in trouble, and it's quite sufficient to tell you that unless some form of strict management action is taken, these stocks will be driven further and further down toward levels from which they will not be able to recover."

The most dramatic depletions have been in the Atlantic, where commercially viable quantities of cod have all but vanished from the fabled Grand Banks, triggering the layoffs of more than 30,000 people in the Atlantic fishing communities of Canada. Off Russia's Pacific coast, the collapse of pollock stocks has brought Russia and the governments of several nations that compete for fish there to the brink of a confrontation over Russia's demand for a three-year moratorium on fishing.

Widespread Depletion

Virtually every other fishing region in the world is also in peril, according to figures compiled by the United Nations Food and Agriculture Organization, the leading international agency concerned with fishing.

In some cases, the agency says, some heavily fished species are approaching not only commercial, but biological extinction. The data show that 9 of the world's 17 major fisheries are in a serious decline, while 4 are classified as commercially depleted. The others are characterized as either "fully exploited" or "overexploited."

From 1970 to 1989, the agency says, there were significant drops in catches of Pacific perch, Atlantic redfish, yellow croaker, Atka mackerel, Atlantic mackerel and Atlantic herring. In the same period, aggregate hauls of four other important species — Atlantic cod, haddock, Cape hake and silver hake — plunged from 5 million metric tons in 1970 to 2.6 million metric tons in 1989.

The evidence, much of it visible each day in the nets of fishermen around the world, has become so obvious that it is hard to refute, Ms. Harwood and other experts say. But it is only recently that marine scientists developed the analytical tools necessary to conclude that fishing stocks were in serious trouble.

The beginning of systematic fisheries research dates to 1902, when the International Council for Exploration of the Sea, a prestigious advisory group that studies North Atlantic species, opened its doors. But the traditional approaches used in the past did not include the consideration of a vast range of environmental factors that are now routinely weighed.

The studies now include the effects of a host of human factors: the growth of vast, government-subsidized fishing fleets, more efficient fish-catching technology, fishing practices that kill vast numbers of immature fish and "nontarget" species, the destruction of coastal spawning grounds, and the large number of vessels that evade compliance with regional fishing agreements by flying the flags of nations that do not recognize international fishing regulations.

Natural Factors

Equally important in evaluating fish populations, scientists say, are the effects of natural occurrences, like changes in water temperature and salinity, which can wipe out certain stocks, especially the fish known as small shoaling pelagics, like sardines, anchovies, pilchard and capelin.

"One thing about the overall world catch is that it fluctuates, and one reason for that is the unpredictability, to a certain extent, of small pelagic resources," said John Fitzpatrick, director of the Food and Agriculture Organization's fishery industries division. "A good example is El Niño, which has severely affected the anchovy fishery off the Peruvian coast. At times like that, if you overfish, you can endanger the whole stock."

Sudden, major disappearances of such links in the food chain can also have a direct bearing on the size and numbers of the larger fish that prey on them. For example, Canadian fishermen say that overfishing of capelin has contributed to the devastation of Atlantic cod stocks in their waters.

"Until recent times, the classical approach to fisheries research was that it was enough trouble just getting the information and working on the population dynamics of the target stock, let alone relating it to interrelationships with other species and oceanographic changes," Ms. Harwood said. "Since then, we've learned that there's more and more information that you need to make an intelligent decision about what the natural resilience of the stock is, and what a safe level of harvesting might be."

But the difficulties of stock assessment are myriad, experts say, beginning with the simple fact that fish in their natural element will not stand still long enough to be counted. There are also, many note dryly, a vast number of fish still scattered over 70 percent of the Earth's surface.

The Food and Agriculture Organization conducts yearly surveys on 995 commercial marine species — everything from tuna and swordfish to squid and shrimp — from 227 spots, ranging from coastal nations to tiny administrative or political entities like the Norfolk and Christmas Islands.

Although some of the data are gathered by the agency's own regional fisheries groups, much of the information on catch sizes comes from fishing nations themselves, and it is not always reliable. This is in part because many countries, particularly in the developing world, lack the money and staffs necessary to conduct accurate surveys of fishing activities along thousands of miles of coast, much of it in remote areas.

Moreover, some data are faked by fishermen who are trying to evade conservation measures by underreporting their catch.

Keeping Track

Despite such obstacles, "our knowledge of the state of many stocks is building up," said Dr. Zbigniew S. Karnicki of Poland, a diplomat and fisheries technology expert who is vice director of the International Council for Exploration of the Sea. "The problem is that for individual nations, it is very costly to conduct research."

Many developed nations with large fleets of huge trawlers, like China, Russia, Japan, Peru and the United States, cut research costs by stationing scientists aboard fishing vessels.

"To actually go out and find out about a stock without fishing it would be unbelievably expensive," Ms. Harwood said. "The source of a tremendous amount of stock analysis comes from basic information like catch rates — particularly catch per unit effort, changes in the catch according to the amount of fishing, and so on."

Fisheries experts say the most frustrating situations develop when fishing nations conduct huge operations and fail to collect and share data. A good example was the routine deployment of hundreds of miles of drift nets over squid stocks in the Pacific, a practice since brought under control by regulations sponsored by the United Nations.

"The netting operations exploded over three or four years, quite a sufficient time to have a dramatic impact on other stocks," Ms. Harwood said. "But there was no information at all gathered by the fleets or shared with other countries."

The United Nations fisheries conference is the first effort in more than a decade to negotiate comprehensive regulations. Such meetings are part of an effort by many governments to establish the principle that in an age of dwindling marine resources, the once unlimited right to harvest the seas carries new responsibilities.

"In a sense it's very high-minded, moralistic stuff, but it's really what's underpinning these talks," Ms. Harwood said. "If you wish to fish, then the exercise of that right must be completely matched with a duty to know what impact you're having, to contribute to the group analysis process of that stock, and to assist in creating one if it doesn't yet exist."

Depletion Of Species

Overfishing has been linked to declining catches of numerous species. In 1989, the Food and Agriculture Organization said commercial fleets had driven some fish near commercial extinction.

ATLANTIC COD

1970	3.1 million metric tons
1991	916,000 metric tons

ATLANTIC REDFISHES

1976	688,000 metric tons
1989	344,000 metric tons

WESTERN PACIFIC YELLOW CROAKER

1970's	300,000 metric tons
1980's	70,000 metric tons

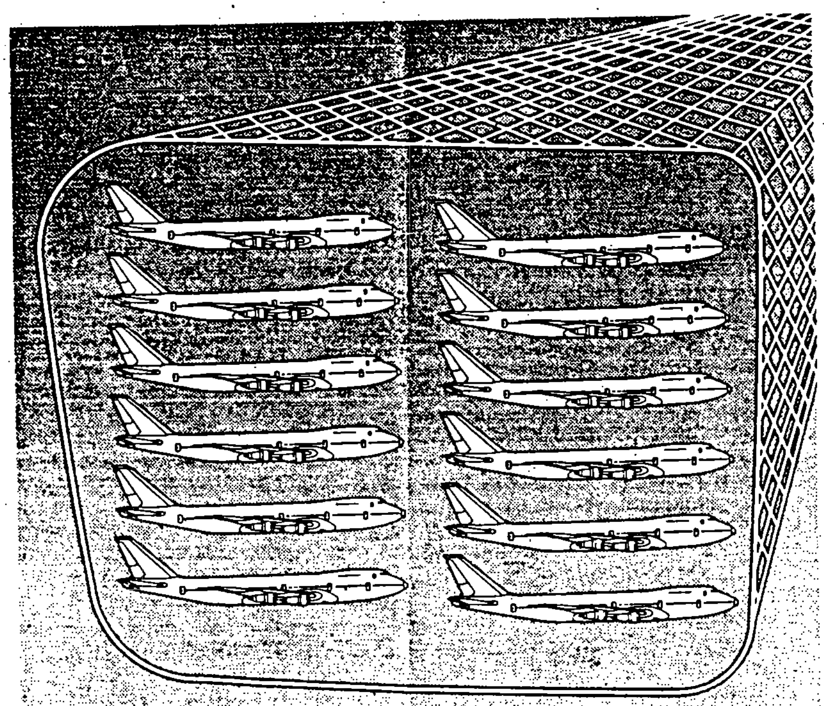
NORTHWEST ATLANTIC HERRING

1970	848,000 metric tons
1989	275,000 metric tons

ATLANTIC MACKEREL

1973	418,000 metric tons
1989	56,000 metric tons

Source: United Nations Food and Agriculture Organization



Giant Maw for Fish Harvesting

One of the largest trawl nets in the world, this Icelandic design has an opening big enough to encompass 12 Boeing 747 jet aircraft. Greenpeace says an even bigger trawl, with an opening 30 percent larger, is currently under construction.

Source: Greenpeace

The New York Times

FISHING COUNTRIES SPLIT ON HARVESTS

Differences Over the Pollock Catch Off Russian Coast Flare at U.N. Parley

By DAVID E. PITT
Special to The New York Times

UNITED NATIONS, July 30 — Rival fishing nations grimly acknowledged this week that their fleets have thinned out stocks of the world's edible marine fish to levels unimaginable only a few years ago, and that only coordinated conservation and management steps will restore them.

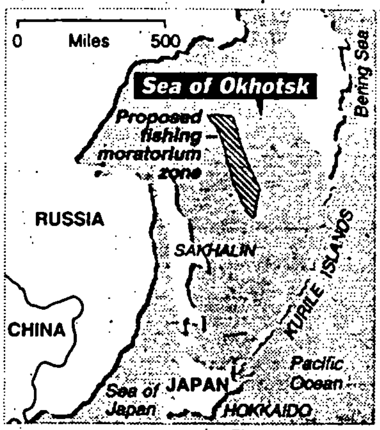
But at the conclusion of three weeks of talks here, a core negotiating group of 70 governments remained far apart on the central problem: how to reconcile the time-honored freedom to harvest the sea with the biological consequences of overfishing. It is a notion that went largely unnoticed until catch rates worldwide began declining sharply about four years ago.

"There has been broad agreement in principle on the nature of conservation measures that need to be taken," said Satya N. Nandan, a diplomat from Fiji overseeing the talks, the first phase of a yearlong United Nations fisheries conference. "But because there are competing national interests, the issues are very delicate, and the process is difficult and naturally slow."

The negotiations, one of a series of follow-up conferences on environmental problems mandated by the 1992 Earth Summit in Rio de Janeiro, represent the first effort to regulate global fishing since the United Nations Conference on the Law of the Sea, which ended in 1982.

Three Nations Balk

As the conference moved toward adjournment, the high stakes in the struggle for dwindling numbers of fish were reflected in an increasingly tense dispute between Russia and several other nations in the Sea of Okhotsk, a formerly rich fishing ground off Russia's east coast, where unregulated fishing appears to have brought stocks of pollock to the verge of collapse.



The New York Times

Russia wants a three-year moratorium on fishing in a 35-by-300-mile zone in the Sea of Okhotsk.

On June 15, Russian officials halted pollock fishing within their 200-mile-wide territorial zone in the sea, and called on Japan, Poland, South Korea and China to join in a three-year moratorium in the Okhotsk "peanut hole," a 35-by-300-mile area formed by the converging boundaries of Russian waters.

But Poland, South Korea and China refused, saying there was no convincing evidence that the stock was in peril and announced this week that instead they would reduce their fishing activities in that area by 25 percent.

Russian officials in New York responded that Moscow was prepared to take "all necessary measures" under international law to halt the fishing, which diplomats said could entail stopping or seizing foreign trawlers and assessing captains for damages.

On Wednesday, the United States announced in a joint statement with Russia released at the United Nations that it would support steps to enforce the Okhotsk moratorium, which it said was in line with efforts by the two countries to save endangered pollock stocks in another area, the Bering Sea.

"It's a very tense situation, and time is running out," a United States official said.

Threat Seen to Law of Sea

Mr. Nandan said he was worried that an accumulation of similar disputes could threaten the Law of the Sea, which he said "contributes to the peaceful use of 70 percent of the earth's surface."

The fisheries negotiations involve 60 "like-minded" coastal countries led by Canada, Iceland, Argentina, Chile, Peru and New Zealand, whose economies are bound up with fisheries within the 200-mile territorial limits, and 10 so-called distant-water countries like China, Russia, Japan and the United States whose fleets include more advanced, long-range vessels.

A paper drawn up by Mr. Nandan as the basis for future talks focuses on proposed guidelines that would be used by regional groups worldwide to begin restoring endangered populations of two key categories of fish: "straddling stocks" like cod, pollock and orange roughy, which swim back and forth between territorial waters and the high seas, and highly migratory species like tuna and billfish.

Representatives of more than 50 private groups attending the conference as observers expressed concern that while major issues and possible solutions had been clearly defined, there were no corresponding signs of the requisite political will.

"There is little evidence that any common commitment exists to adopt legally binding obligations at the global level that will inform and guide regional, national and local action," said Malika Naqasima of the Fiji Women and Fisheries network, who addressed the conference on Friday on behalf of many of the groups.

The New York Times

NEW YORK, SUNDAY, JULY 25, 1993

U.N. TALKS COMBAT THREAT TO FISHERY

Seek to Control Overfishing That Is Said to Be Wiping Out Several Species

By DAVID E. PITT
Special to The New York Times

UNITED NATIONS, July 23 — In a basement conference room a world away from the klieg-lighted talks upstairs on Bosnia, Iraq and Haiti, more than 150 diplomats here have been grappling with what most agree is a grave but less photogenic crisis: the threat to the earth's fisheries.

Alarmed by evidence that cod, tuna, mackerel, pollack and scores of other valuable species are being wiped out by overfishing, the United Nations opened a three-week conference on July 12 to try to lay the groundwork for a global system to manage and repropagate the fish that are still left.

"Fish are a common property resource," Ross Reid, Canada's newly installed Minister of Fishing and Oceans, said at the conference last week. "There is a natural tendency for each fishing vessel, and each fishing country, to try to take as much as it can from the common resource. The result is as predictable as it is disastrous."

The conference, one of the several follow-ups to the Earth Summit in Brazil last year, represents the first organized effort to regulate high-seas fishing since the United Nations Convention on the Law of the Sea was opened for signature in 1982. The talks are an attempt to build on the fisheries provisions of the agreement, which remains 3 short of the 60 countries needed to ratify it before it can enter into force.

Fleets Growing Too Fast

The United Nations Food and Agriculture Organization says its surveys show that virtually every commercial species has been "depleted," "fully exploited" or "overexploited," while the size of the world's fishing fleets, heavily subsidized by governments, has increased at twice the rate of the size of the total catch.

Greenpeace International, one of more than 50 private groups taking part in the conference, says the economic absurdity of the situation is dramatized by Food and Agricultural Organization figures showing that the cost of operating the world's three million fishing vessels in 1989 was $92 billion, while the catch was worth only $72 billion.

Progress at the talks has been slow. But participants say that without a rational system to regulate who may fish where, and with what equipment, fish populations will continue to plummet, sharpening competition for a dwindling resource. This will not only ravage the economies of increasing numbers of coastal fishing communities, experts say, but could also reignite open-water clashes like the so-called cod wars of the 1970's.

Bernard Martin, a 39-year-old cod fisherman from Petty Harbour, Newfoundland, one of more than 30,000 Canadians idled by a Government moratorium on catches of cod, said he hoped that the conference would do something to halt the use of factory-ship equipment like drag nets.

"Dragging is a technology that is the equivalent of clear-cutting or strip-mining," said Mr. Martin, who came to New York for the first time last week as a representative of a group called Fishers Organized for Revitalization of Communities and Ecosystems.

The talks are focusing on two categories of fish: species like pollack in the Bering Sea and cod off Canada's eastern coast, whose meanderings cause them to straddle territorial and international waters, and fish like tuna, swordfish and billfish, whose seasonal migrations cover thousands of miles.

Two Sets of Countries

Central to the diplomats' task is resolving tensions between coastal fishing countries — led by Canada, Chile, Peru, Argentina, Iceland and New Zealand — that control the right to fish within 200 miles of their shores, and a handful of so-called distant-water countries, including China, Japan, Poland, Spain, Russia, and, to a certain extent, the United States. The long-range fleets catch most of the world's fish.

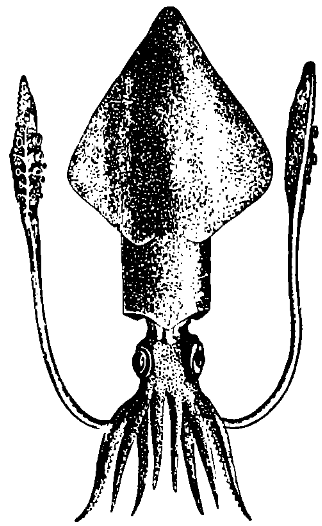
The coastal nations argue that huge factory ships fishing in international waters are destroying the stocks in their territorial waters. But as many nongovernmental experts say and a handful of governments have acknowledged, the crisis stems as much from coastal countries' mismanagement as from the depredations of the major fleets.

Whatever the case, Canada and the other coastal countries have proposed binding rules to regulate catches in international waters. The distant-water countries have held fast to the position that any rules should be in the form of nonbinding guidelines drawn up regionally.

Some officials have hinted that if negotiations fail, they will take matters into their own hands, unilaterally seizing vessels in international waters. The conference chairman, Satya N. Nandan, a Fijian diplomat who played a pivotal role in the contentious Law of the Sea negotiations, has told colleagues that he fears that such a development could imperil the agreement to the point where it might have to be renegotiated.

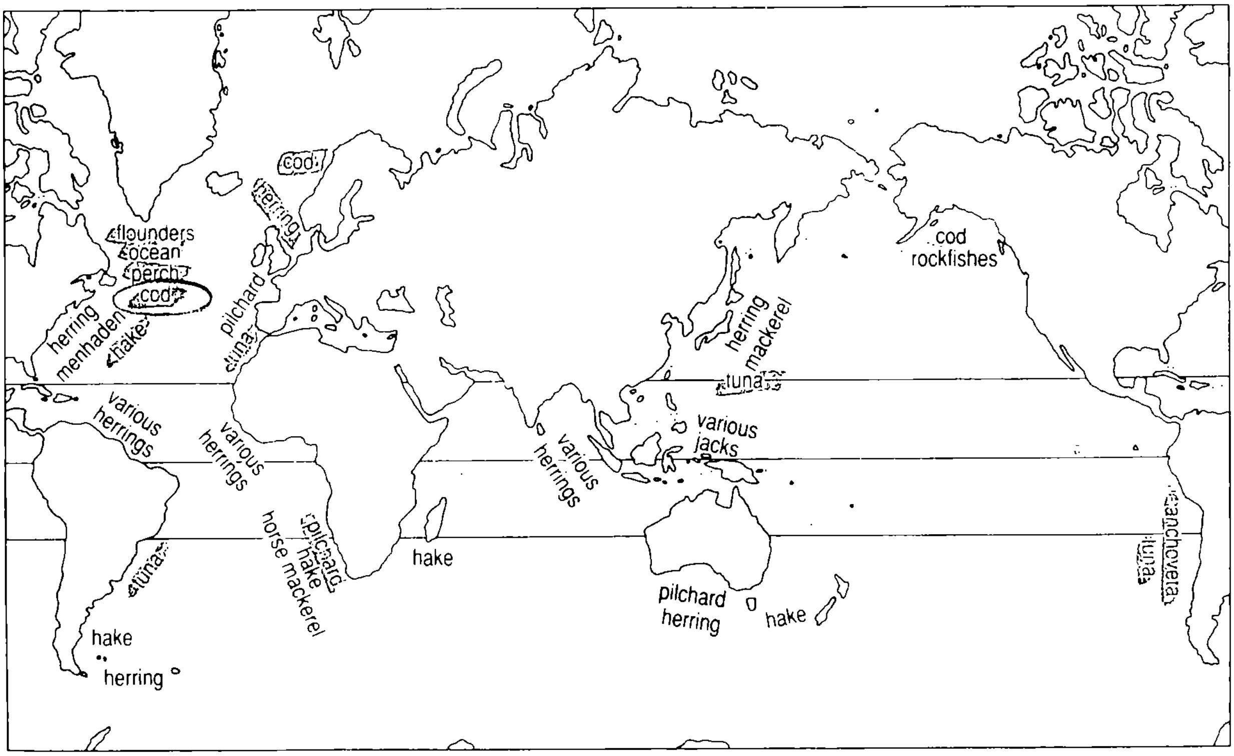
and sardine mainly on and over the continental shelves of Europe and North America: see Figure 1.10. Nearer the Equator, pelagic fish such as sardine, menhaden and mackerel are fished, and demersal fish become unimportant. Many other pelagic species, such as hake and tuna, are fished in the tropical Atlantic. The south Atlantic produces smaller quantities of fish, mainly hake (often in the shallow waters around the Falklands), pilchards (near Africa) and horse mackerel.

In the Pacific, the Peru fishery catches just one fish, the anchoveta. The Japanese fishery catches anchovy, mackerel, saury, and also an animal which is not a fish – squid. Pollack, herring and cod are also important in the North Pacific, and salmon and shellfish off the west coast of North America.

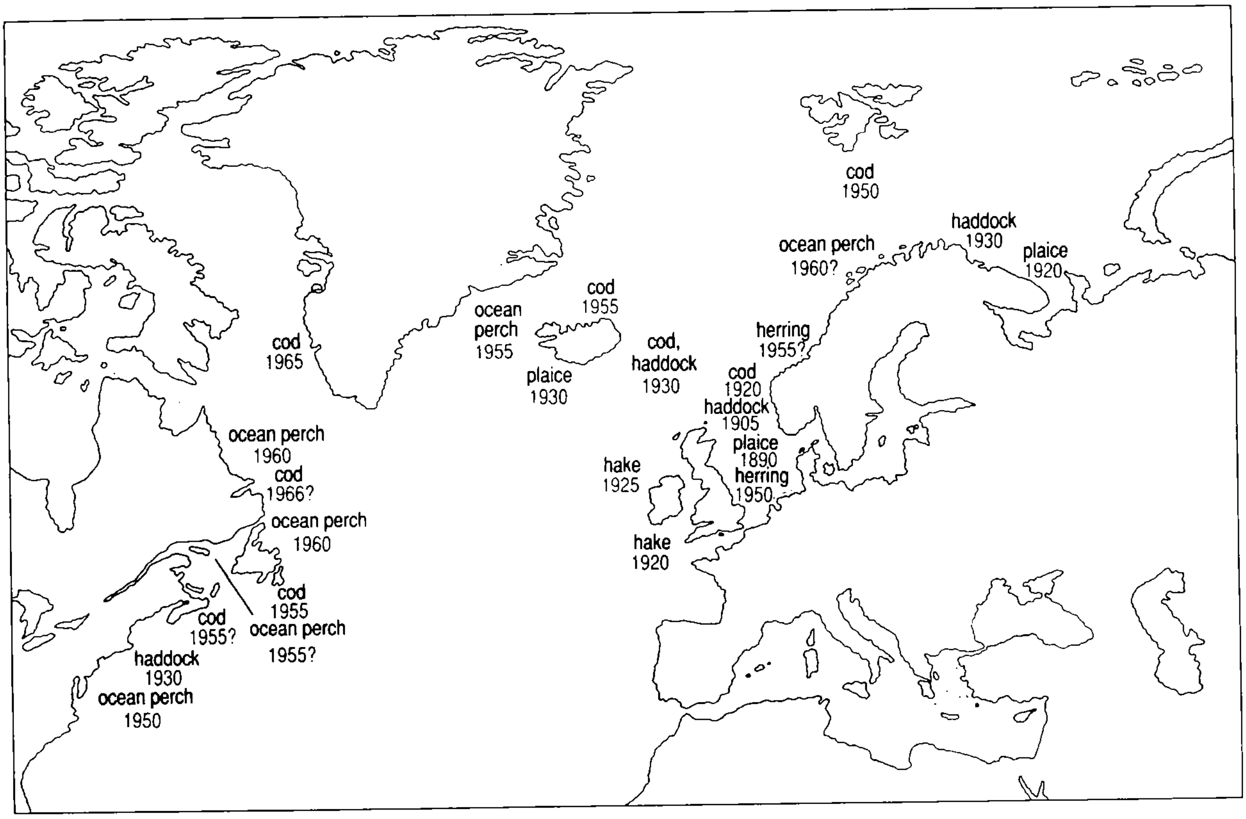


The Peru anchoveta fishery is, or can be in some years, the largest fishery in the world ocean, catching over 12 million tonnes in 1970 and providing a third of Peru's export earnings. However, the catch is very variable: in 1972 it fell to 4.5 million tonnes and 1973, 1.8 million tonnes, with disastrous effects on the Peruvian economy. This was due to large-scale atmospheric and oceanographic variations. The anchoveta eat phytoplankton, which grow in large populations in the upwelling waters off Peru. The upwelling is driven by the south-east Trade winds which drive surface water off the coast of Peru. If these winds blow less strongly, the upwelling is less and fewer phytoplankton grow, providing less food for the anchoveta, a situation called 'el Niño'.

Fish catches can also decline because of overfishing. This occurs when fewer fish are caught even though the fishing effort is increased by more



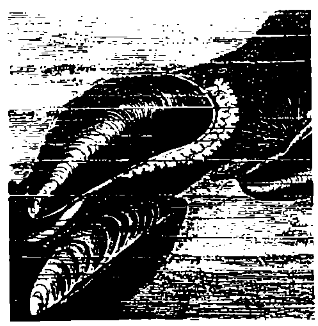
▲ *Figure 1.10 Major world fisheries. Those in green have been overfished, or are in danger of overfishing.*



▲ *Figure 1.11*
The North Atlantic fishery, with the dates of the beginning of overfishing for each fish population.

boats or better fishing gear. Ideally a fishery should be regulated to produce a maximum catch with the minimum of fishing effort (fisheries management will be discussed in Section 5.2), but this is difficult to achieve, often for political reasons, such as individual countries setting their own limits on how many fish can be caught, when in combination the limits may result in overfishing, or for economic reasons: what is worse, overfishing or laid-up fishing boats and unemployed fishers? An example is the north Atlantic fishery, where overfishing began as long ago as the last century in the North Sea (shown in Figure 1.11). The overfishing of plaice was followed by cod and haddock by 1920. By the 1950s the same had happened to North Sea herring, hake to the west of Britain and cod, haddock and plaice off Norway and off Iceland. Between 1955 and 1966 cod, perch and haddock off the North American coast were also overfished.

Another problem affecting marine food resources is that of pollution. Coastal areas and estuaries in particular are subject to pollution from land, and the many fish, clams, mussels, crabs and other shellfish which breed in these areas are particularly vulnerable to pollution. These animals may concentrate pollutants in their bodies and even if they survive the pollution, they may be unsafe for human consumption. In the Minamata Bay area of Japan mercury compounds were discharged into the sea as waste products from a chemical factory. The mercury in the water was concentrated by shellfish, which were collected by fishers in the area. In 1963 it was discovered that the shellfish were the cause of mercury poisoning of the local people, causing 45 deaths.



As well as hunting food in the ocean, it is also possible to farm it, to harvest enclosed populations of fish and shellfish, a process called

To: David and Katie

From: P.J.

Date: July 27, 1993

Re: Review of Events at UN Conference on Straddling and Highly Migratory Fish Stocks, July 7-30, 1993

DRAFT

I. Background

- Straddling and highly migratory fish stocks include species which occur within the exclusive economic zones (EEZs) of two or more coastal states, or which occur both within the EEZ and an area beyond and adjacent to it.

- The FAO recently classified almost every commercial fish species in every ocean and sea as "depleted," "fully exploited," or "over exploited." Stocks in 4 of the world's 17 major fishing regions are seriously depleted, while catches in 9 others are declining. One of the most contentious issues at UNCED was that the over-exploitation of living marine resources in the high seas has an adverse impact on resources within exclusive economic zones (EEZs).

- Moratoria on high seas fishing are in effect for certain stocks off the Grand Banks of Canada, in the Bering Sea "donut hole." There is a unilaterally imposed prohibition on fishing in the Sea of Okhtosk off Russia's East coast.

- The UN Conference is being held to promote effective implementation of the provisions of the UN Convention on the Law of the Sea (UNCLOS) on straddling and highly migratory fish stocks by: (1) identifying and assessing existing problems related to the conservation and management of these stocks; (2) considering the means of improving fisheries cooperation among states; and (3) formulating appropriate recommendations.

- Currently, there is no effective regime to regulate high seas fishing, as UNCLOS is not yet in effect.

- Canada and its "core group" (Argentina, Chile, Iceland, New Zealand) indicated before the Conference that they were seeking a new, global legal regime; this is contrary to the U.S. desire to apply non-binding guidelines or principles which could be applied on a regional, case-by-case basis.

- Canada also proposed that similar management measures be applied to the problems of both straddling and highly migratory stocks [the "Santiago Declaration"]. The U.S. opposed this approach, since it is inconsistent with UNCLOS.

- The U.S. entered the Conference with a flexible position on the outcome: the delegation would have supported incorporating the results into a UN General Assembly resolution or declaration or other appropriate document. It would not, however, find it appropriate--or even possible--for the Conference to attempt to draft a treaty or other legally binding instrument; this would take years to conclude, and would consume valuable time and funds that would be better spent strengthened fishery conservation and management regimes at the regional and sub-regional level.

II. Main Conference Issues

- The Conference is dealing with issues under the following categories: (1) the nature of conservation and management measures; (2) mechanisms for cooperation; (3) responsibilities of regional fisheries organizations; (4) compliance with conservation and management measures; (5) enforcement of conservation and management measures; (6) non-parties to a regional agreement; (7) settlement of disputes; and (8) compatibility between national and international conservation measures.

III. NGO Position at the Conference

- The NGO statement at the Conference emphasized the need for fisheries conservation, environmental protection, and respect for and recognition of the rights of small scale, traditional and indigenous fishworkers and fishing communities. The statement argued that a consistent management regime must apply throughout the range of both straddling and highly migratory stocks. It called for effective international institutional mechanisms to implement substantive reforms, including but not limited to legally binding agreements at the global level, and a specialized, global fisheries "Conservation Fund" primarily for the benefit of less industrialized countries.

IV. Key U.S. Positions at the Conference

Salmon?

- The U.S. delegation said it is mainly concerned with the sustainable use of marine resources over the long term. It is interested specifically in Alaskan Pollock in the Central Bering Sea and U.S. tuna fisheries (within the US EEZ off the East coast, Hawaii, and U.S. islands in the Pacific, and South Pacific tuna fleet).

in this region??

- The U.S. favors regional approaches to conservation and management, which are "best designed and adopted to address discrete conservation and social needs and objectives."

- The delegation called for greater control by flag states over their vessels, and endorsed the International Code of Conduct for Responsible Fishing and the FAO's initiative to conclude a legally-binding instrument on the flagging of vessels. It has emphasized multi-species ecosystem oriented management, and favors a distinct treatment of straddling stocks and highly migratory species as contained in UNCLOS. It believes that the precautionary approach should be used in managing these stocks when scientific data is in question.

V. General Agreement Among Delegates on Basic Issues:

- Commitment to seeking long-term solutions.
- Reorganization of the need for effective conservation and management of stocks over their full range.
- Effective management requires cooperation among states.
- UNCLOS must be the legal framework within which conservation and management measures are developed.
- There is a need for an International Code of Conduct for Responsible Fishing
- Flag state enforcement is fundamental and essential.
- Data and scientific information are essential for conservation and management measures. A precautionary approach should be used when and where appropriate
- Resource sustainability is essential.
- Clear understanding of monitoring, control and surveillance is essential for effective conservation and management.
- Speedy, effective dispute settlement is necessary.
- The issues of non-parties to conservation and management agreements and new entrants to existing fisheries must be addressed.
- Technical assistance to developing countries is necessary.

What we aren't even a party to this Convention! What does this mean for our participation??

VI. Key Conference Developments and Debates

- Differences in Views on Conference Outcome: Several countries have called for an internationally legally binding result in the form of a convention or similar instrument. Others want a resolution or declaration. The U.S. suggests an agreement on suggested guidelines or principles which could be applied on a regional basis. It does not favor an attempt at drafting a treaty, which would be time and resource consuming.

- Developing Countries Seek Aid: Many developing countries are stressing the need for capacity building measures and financial assistance to help them in managing fish stocks, collecting data and supporting surveillance systems.

but this is a problem caused by many developed countries right??

- Canadian Draft Convention: Canada submitted a draft convention (co-sponsored with Argentina, Chile, Iceland and New Zealand) on the conservation and management of straddling fish stocks and highly migratory fish stocks on the high seas. The draft is **not supported** by the US delegation at this time--because of both form and substance

- <u>US Reaction to Canada Proposal</u>: Instead of supporting Canada draft convention, US delegation is trying to gain support for adoption of general principles which should be adopted by states, entities and regional organizations on a voluntary and regional basis depending on the particularities of a region. It would have reporting requirements versus globally, legally binding provisions.

- <u>EC Proposal</u>: Following Canada's introduction of its draft convention, the EC submitted a document entitled, "Suggested Guidelines," that related to conservation and management commitments and measures and to international cooperation, rights, responsibilities, obligations, benefits and duties. It represents the opposite end of the spectrum from the Canadian draft on the outcome of the Conference. The Canadian and EC proposals have not yet been formally discussed, but the U.S. believes it is not comprehensive enough to be a satisfactory as an outcome of this Conference.

- <u>NGO participation</u>: When deciding to hold informal consultations, the Conference chairman initially sought to exclude NGOs. The U.S. pressed for full NGO participation, and the chairman and NGOs agreed that NGO representatives could participate as observers in the informal consultations.

- <u>FAO Flagging Agreement</u>: Representatives from most all governments (including the U.S.) participating in negotiations on the FAO "Flagging Agreement" have met each evening and have agreed informally on each of the unresolved issues. It appears as though the FAO Conference will be able to adopt the agreement during its November meeting. The USDEL thinks that **this development may have significant bearing on the atmosphere of this UN Conference**, since the prospect of a finalized flagging agreement may lead a number of countries to question the need for an additional treaty on high seas fisheries at this time.

What if the
Substance of
this agreement?

THE WALL STREET JOURNAL TUESDAY, MAY 18, 1993

ENTERPRISE

FDA Regulatory Tide Swallows Up McCurdy Fish Co.

Little Maine Salt Shed May Be Red Herring for Canadian Double Standard ✓

By Brent Bowers
Staff Reporter of The Wall Street Journal

This is the story of how government regulation killed the U.S. smoked-herring industry.

Unfortunately for John McCurdy, *he* was the industry. He says he was forced to shut down his herring smokehouse in Lubec, Maine – by all accounts, the last one in America – because he refused to gut freshly caught fish before dumping them into brine tanks.

With only $250,000 in annual revenue, McCurdy Fish Co. was no match for the U.S. Food and Drug Administration.

John McCurdy

Undaunted, Mr. McCurdy is still pressing the FDA to modify the policy that did in his family business in 1991. Though he despairs of ever reopening – key employees such as the smoke tender have scattered – he says he hopes that his quixotic campaign "will have some influence on how the U.S. government handles other [food] cases." His battle underscores the vulnerability of small companies to sudden shifts in the regulatory environment.

The FDA says that it intervened to protect the public from the threat of botulism. The 62-year-old Mr. McCurdy says that the agency overreacted. He says his company produced three million pounds of herring – roughly 54 million fillets – in his 20 years at the helm without a single report of food poisoning.

Mr. McCurdy's run-in with the FDA began in 1990, when the agency informed him that it could no longer tolerate his methods. The company had used these methods since Mr. McCurdy's grandfather founded the concern at the turn of the century. The notification grew out of the agency's 1988 "policy guide" that fish must be eviscerated before being salted and smoked. Failing to do so posed "a potentially life-threatening, acute health hazard," the FDA told Mr. McCurdy. The company eviscerated the fish after the salting and smoking process.

Nonsense, Mr. McCurdy retorted. Not only had he never had any complaints, he says, but FDA inspectors found nothing amiss in their almost yearly tests of his fish. The entrepreneur argued that the FDA was wrongly applying standards set for freshwater whitefish, which had been blamed for three outbreaks of botulism resulting in three deaths in the 1980s. Ocean herring are much smaller animals. The high salt content in the company's brine tanks was sufficient to destroy any toxins, he says.

FDA officials concede that its policy grew out of problems with whitefish, but say it made makes sense to apply the standards to all fish.

Lubec Feels the Pinch

The confrontation raged for a year. The crux of the problem, Mr. McCurdy says, was that he couldn't afford to pay $75,000 for the equipment needed to meet the FDA's demands. With little lobbying clout and no money to wage an uphill legal battle, he finally closed in May 1991.

The demise of McCurdy Fish wiped out 22 jobs in Lubec, a coastal village of 1,900 people. Today, a "for sale" sign is affixed to Mr. McCurdy's salting shed, a red building covered with cedar shingles that sits on pilings in Johnson Bay. So far, Mr. McCurdy has been unable to find a buyer. No wonder: half of the 20-plus stores in downtown Lubec are boarded up, victims of a long economic decline. Meanwhile, the Maine Historic Preservation Commission last month nominated Mr. McCurdy's smokehouse complex for listing on the National Register of Historic Places.

Mr. McCurdy still chokes with anger at the way things turned out. He says "tons and tons" of smoked herring continue to pour into the U.S. from Canada, some processed by the same methods that he used. "It's a double standard that has destroyed my livelihood and cost this town more than 20 jobs and an industry that was part of the community since the early 1800s," he says bitterly.

The FDA counters that a U.S. agreement with Canada blocks exports of smoked fish that aren't eviscerated before processing. At least one Canadian fish processor, however, privately acknowledges that it ignores this official requirement.

The Only Villain

Patrick McGuinness, vice president of the Fisheries Council of Canada, an industry group, suggests that the FDA overreacted. "This type of process has been traditional from day one and still is everywhere in the world," he says. He adds that he doesn't know of any statistical evidence indicating that smoked herring poses a botulism threat.

Considering Americans' phobia about contaminated food, the FDA probably had no choice, says Roy Martin, vice president for science and technology at the National Fisheries Institute, a trade group in Washington, D.C. But he wonders whether the crackdown is justified by the three deaths in the 1980s.

"There's a risk-benefit question here the country hasn't addressed yet," Mr. Martin says. "The only villain is 'the possibility of a public-health problem.' When you have the word 'may' in there, you can drive a truck through it."

Would he have eaten Mr. McCurdy's smoked fish? "Sure," Mr. Martin says. "I'm sure it was perfectly safe."

Thomas Billy, director of the FDA's office of seafood, bristles at any suggestion that the agency engaged in overkill. "What we're talking about is not some bureaucratic, arbitrary whimsy," but people's lives, he says. After all, he notes, Mr. McCurdy had the option of buying widely available evisceration equipment. The FDA official says there also was a lack of "quality control" at the Lubec plant.

Mr. Billy says the FDA might be willing to modify its stand to permit the smoking of uneviscerated fish under rigorous processing and testing procedures. In practice, however, such a policy only would apply to the Canadians. Mr. McCurdy says that he is too old to start over.

But the entrepreneur has yet to give up the regulatory battle, and has enlisted the help of Maine Sen. William Cohen. In February, Sen. Cohen fired off the latest in a series of letters to the FDA questioning its policy. In a separate note to Mr. McCurdy, the senator wrote: "I understand your frustration and I agree that FDA's policy in this matter is, at best, inconsistent." Adds John Veroneau, Sen. Cohen's legislative counsel: "The broader point is: To what extent are there other McCurdys out there? Who [will be] next victim of FDA zealousness?"

Doctors Oppose Public Access to Malpractice-

By Edward Felsenthal
Staff Reporter of The Wall Street Journal

Patients' rights and doctors' privacy are colliding over a proposal to make information on medical-malpractice cases publicly available.

Legislators and consumer advocates are urging Congress to make the information public by allowing patients access to the so-called National Practitioner Data Bank. The federal data bank, which began operating in 1990, records jury verdicts and settlements in cases against doctors, as well as state disciplinary violations and revocations of hospital privileges. The data currently are available only to physicians and health-care organizations, such as hospitals and licensing boards.

LEGAL BEAT

The proposal for public access is raising the ire of doctors' groups, who have opposed the data bank since its beginning. Even before the current debate heated up, doctors had increased their lobbying to stop the data bank from recording cases that settle for small amounts of money. By recording them, physicians contend, the bank forces doctors who want to maintain a clear record to litigate frivolous suits they otherwise would settle cheaply.

Now doctors are fuming that, in the midst of their efforts to curtail the data bank's functions, some legislators want to expand its role even further by opening its records to the public. "Who is agitating to have this done?" asks James Todd, executive vice president of the American Medical Association. "People who have a generic dislike of physicians."

Supporters of the data bank say current health-reform efforts have prompted the need for patients to have access to the data. Many state and local reform efforts seek to provide information that will help large purchasers and individual consumers shop intelligently for health care. And President Clinton has said he wants to introduce more competition into health care by pooling networks of individuals and businesses to look for the best health plan at the best price.

"To make a system with a significant role for market forces work, you need [public access to] the kind of information in the data bank," says Ron Wyden, an Oregon congressman who was a sponsor of the legislation that created the system. Rep. Wyden is drafting legislation that would open the data bank to the public and plans to hold hearings on the subject within a month.

Although the results of malpractice trials are public, tracking down that information can be complicated and expensive. Moreover, the terms of out-of-court settlements are often confidential.

But doctors say the malpractice information in the data bank is mostly irrelevant for patients, who might be needlessly alarmed by the meritless suits that are filed against many physicians. "The public would only get numbers [of malpractice cases] but wouldn't get any of the details regarding the suit," says Kathy Bryant, a lobbyist for the American College of Obstetricians and Gynecologists. ACOG was one of the few physicians groups that originally endorsed the bank, but the group conditioned its support on congressional agreement to bar patient access.

Doctors also worry that, in the public's hands, the information in the data bank might unjustly harm their reputations. "The fact that a physician is sued and loses a case doesn't mean that the physician is incompetent, because we well know that many cases in the courtroom are decided [largely] on emotion" says the AMA's Dr. Todd. Physicians have a chance to defend themselves before licensing boards and hospital committees who use the data bank, says Ms. Bryant. But "you wouldn't have that opportunity in a public setting because you wouldn't know who's getting the data or when or why."

Opponents of the bank also point to recent studies that have criticized its record. A January report by the U.S. Government Accounting Office scolded the bank for responding too slowly to requests for data and for releasing some information to the wrong people. And in February a study by the Department of Health and Human Services concluded that, although hospitals have found the bank helpful, it actually has altered only 1% of their decisions on whether to allow doctors on their staffs.

In addition, in a recent AMA survey of 37 major malpractice insurers, almost all said the data bank has made doctors more inclined to litigate malpractice claims, fearing settlements will blot their records. The bank's supporters concede it has had plenty of technical troubles, but they say such a massive undertaking deserves more time for ironing out problems.

"I don't see how you can make a compelling argument that patients and consumers ought to be kept in the dark on this information that can mean their life and death," says Rep. Wyden. "It ought to be a goal of health reform to get this out in an easily accessed, understandable, readily digestible fashion."

THE WALL STREET JOURNAL TUESDAY, MAY 18, 1993

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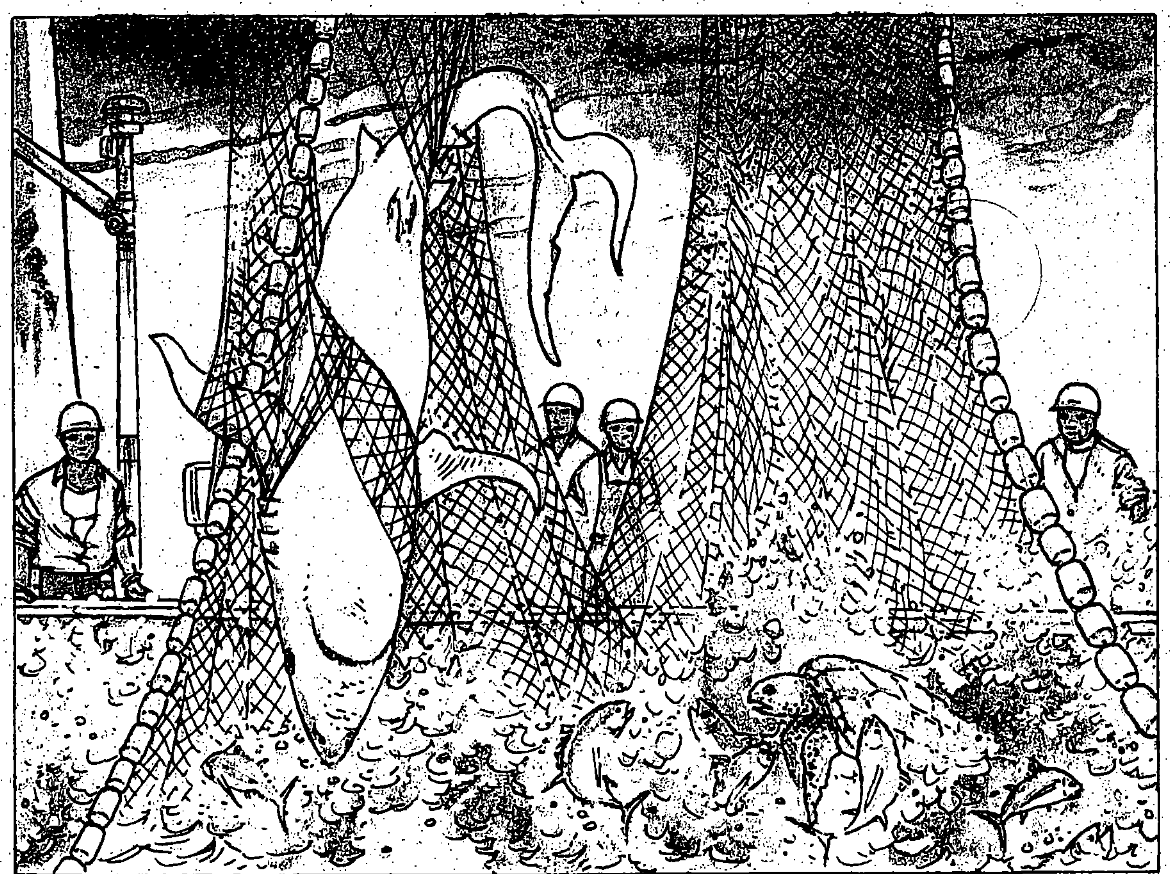
In the race for tuna...



DOLPHINS AREN'T THE ONLY SACRIFICE

The Impacts of Commercial Tuna Fishing on Oceans, Marine Life and Human Communities

A Report By
Greenpeace International

DRAFT

CONVENTION FOR THE CONSERVATION OF ANADROMOUS STOCKS IN THE NORTH PACIFIC OCEAN

Parties:
Canada, Japan, the Russian Federation, and the United States

Entry into force:
Febru~~r~~ary 16, 1993

Major provisions:

Objective
- The objective of the Commission is to promote the conservation of anadromous stocks in the Convention Area.

Ecosystem management
- The Commission may consider matters related to the conservation of ecologically related species in the Convention Area. Parties shall develop appropriate cooperation programs, including scientific observer programs, to collect fishing information in the Convention Area for the purpose of scientific research on anadromous stocks and, as appropriate, ecologically related species. "Ecologically related species" are defined as living marine species which are associated with anadromous stocks found in the Convention Area, including but not restricted to both predators and prey of anadromous stocks.

- The Commission has the authority to recommend measures to avoid or reduce incidental taking of anadromous fish in the Convention Area. Fisheries for non-anadromous species shall be conducted in such time, areas and manners to minimize the incidental taking of anadromous fish to the maximum extent practicable to reduce such incidental taking to insignificant levels.

Scientific research fishing
- The Parties shall submit to the Commission created by the Convention scientific research programs to be conducted by their nationals or vessels involving directed fishing for, or incidental takes of significant levels of, anadromous fish in the Convention Area sufficiently in advance of the conduct of such research to allow appropriate scientific review of all Parties. If all Parties that are States of origin, except for the requesting Party, notify the Commission within thirty days of their receipt of the program from the Commission that they regard the fishing involved in such program to be a violation of the prohibition against directed fishing for anadromous fish or a failure to minimize to the maximum extent possible the incidental taking of anadromous fish, the program shall not be implemented pending a decision by the Commission.

- The Parties agree that the taking of anadromous fish for scientific research purposes must be consistent with the needs of a scientific research program and with the provisions of the Convention. The catches of anadromous fish taken in conjunction with any scientific research in the Convention Area should be reported to the Commission within nine months.

Decision-making

- Decisions of the Commission on all important matters shall be taken among all Parties that are States of origin of anadromous stocks which migrate into the Convention Area. A matter shall be deemed important if any Party that is a State of origin of anadromous stocks which migrate into the Convention Area considers it to be important.

- Decisions of the Commission on all other matters shall be taken by a simple majority of the votes of all Parties casting affirmative or negative votes.

Implementation

- The Parties shall take appropriate measures, individually and collectively, in accordance with international law and their respective domestic laws, to prevent trafficking in anadromous fish taken in violation of the prohibitions provided for in this Convention, and to penalize persons involved in such trafficking.

- Each Party shall take appropriate measures aimed at preventing vessels registered under its laws and regulations from transferring their registration for the purpose of avoiding compliance with the provisions of the Convention.

- Each Party shall take all necessary measures to ensure that its nationals and fishing vessels flying its flag comply with the provisions of the Convention.

- The Convention includes an article very specifically authorizing vessel boarding as a means of enforcement.

- The Commission has the authority to review and evaluate enforcement actions taken by the Parties and recommend additional action to be taken by the Parties to ensure effective a nd diligent enforcement of the provisions of the Convention.

- When two or more Parties notify the Commission that they believe a fishery is being conducted by nationals or vessels of a Party in the Convention Area contrary to the Annex to the Convention, the Commission shall convene a special meeting to consider the matter as soon as possible. The Parties who have notified the Commission shall be responsible for presenting the information on which they based such notification. The Party whose nationals of vessels are conducting the fishery in question shall be responsible for demonstrating that the fishery is not being conducted contrary to the Annex. If the Commission decides that a satisfactory demonstration has not been made, the fishery shall be suspended until it is demonstrated that the fishery will be conducted consistent with the Annex.

Non-Parties

- The Parties agree to invite the attention of any State or entity not party to the Convention to any matter relating to the fishing activities of its nationals, residents, or vessels which could adversely affect the conservation of anadromous stocks within the Convention Area.

- The Parties agree to encourage any State or entity not party to the a Convention to adopt laws and regulations consistent with the provisions of the Convention in regard to fishing operations conducted by its nationals, residents, or vessels and to cooperate in the attainment of the objectives of the Convention.

- The Parties shall cooperate in taking action, consistent with international law and their domestic laws, for the prevention by any State or entity not party to the Convention of any directed fishing for, and the minimization by such State or entity of any incidental taking of, anadromous fish by nationals, residents or vessels of such State or entity in the Convention Area.

- The Commission has the authority, where appropriate, to invite any State or entity not party to the Convention to consult with the Commission with respect to matters related to the conservation of anadromous stocks and ecologically related species in the Convention Area.

DRAFT

CONVENTION FOR THE CONSERVATION OF SOUTHERN BLUEFIN TUNA

Parties:

Australia, Japan, and New Zealand. Other countries with an interest in the fishery are encouraged to join.

Signed:

May 10, 1993; will enter into force when ratified by all three signatory parties.

Background:

The overall stock of southern bluefin tuna has become severely depleted as result of past overfishing of the species. Over the past ten years, Australia, New Zealand, and Japan have cooperated closely to manage the recovery of the fishery. Through informal exchanges on stock levels and voluntary reductions, particularly in recent years, the GNZ believes this trilateral arrangement has saved an important species which might overwise have vanished.

Major provisions:

- The Convention creates the Commission for the Conservation of Southern Bluefin Tuna, which will meet yearly to determine management measures for the fishery.

Mandatory conservation and management measures
- All signatories have agreed to mandatory quota setting procedures and mandatory allocation the total allowable catch among the parties.

Objections
- The Convention includes the clause "Reservations may not be made with respect to any of the provisions of this Convention " which means that the decisions of the Commission will be final and signatories cannot object to these decisions.

Implementation
- All parties to the Commission will be required to exercise full control over their southern bluefin tuna fishing fleets and to implement measures agreed to by the Commission.

Dispute settlement
- Any disputes are to be resolved by negotiation between the parties concerned, by arbitration, or, if all agree, by the International Court of Justice, i.e., binding and compulsory arbitration.

DOS Comment:

The Government of Australia's Department of Foreign Affairs and Trade views this as a strong and progressive convention which should ensure the long-term viability of southern blue fin tuna stocks. Foreign Minister Gareth Evans stated that the convention was an important achievement in implementing Australia's Law of the Sea obligations to conserve fishery resources, particularly those on the high seas. According to AmEmbassy's contact in the Department of Foreign Affairs, strong efforts will be made to encourage others to sign the convention. Other nations exploiting the southern blue fin tuna fishery include South Korea, Taiwan, Russia, South Africa, and Indonesia.

DRAFT

INDIAN OCEAN TUNA COMMISSION

Negotiating Parties:

Australia, Bahrain, Bangladesh, Comoros, Ivory Coast, Denmark, Djibouti, Egypt, Ethiopia, European Economic Community, France, India, Indonesia, Iran, Iraq, Israel, Japan, Jordan, Kenya, Korea, Kuwait, Madagascar, Malaysia, Maldives, Mauritius, Mozambique, Myanmar, New Zealand, Oman, Pakistan, Panama, Oatar, Saudi Arabia, Seychelles, Somalia, Spain, Sri Lanka, Sudan, Tanzania, Thailand, United Arab Emirates, United Kingdom, Yemen

Entry into force:

Once the FAO Council formally approves the final Draft Agreement, the agreement will enter into force from the date of receipt by the Director-General of FAO of the tenth instrument of acceptance.

Background:

In April 1989, a Conference was held to adopt a Draft Agreement for the establishment of an Indian Ocean Tuna Commission. Although considerable progress was made at the Conference, agreement on a final text was not reached. The principal matters which required further consultation were the legal framework of the new Commission and the degree of autonomy to be granted to that Commission if the Agreement were concluded under Article XIV of the Constitution of the Food and Agriculture Organization of the United Nations (FAO). Both of these problem areas were resolved within FAO and a Second Conference was held in June 1992 to examine the main issues associated with the Draft Agreement. These included: area of competence, species, membership, objectives and functions, sessions of the Commission, observers, administration, procedures for recommending management measures, implementation, information, subsidiary bodies, finances, headquarters, cooperation with other organizations and institutions and legal framework. The Conference agreed on a bracketed Draft Agreement.

Status:

FAO reports that consultations between the Governments of India, Mauritius, France and the United Kingdom have resulted in a compromise formula addressing issues of EC membership and the membership of EC member states participation in respect of their overseas territories in the Indian Ocean.

Major provisions:

Objectives
- The functions and responsibilities of the Commission are to be carried out consistent with the principles expressed in the relevant provisions of UNCLOS. They include the responsibility to adopt, on the basis of scientific evidence, conservation and management measures, to ensure the conservation of stocks covered by the Agreement, and to promote the objective of their optimum utilization throughout the Area.

Decision-making
- The Commission created by the Agreement may adopt binding conservation and management measures by a two-thirds majority of the Members present and voting.

- Conservation and management measures for stocks for which a sub-commission has been established shall be adopted upon the proposal of the sub-commission concerned.

- The Commission may, by a simple majority of Members present and voting, adopt recommendations concerning conservation and management of the stocks for furthering the objectives of this Agreement.

Objections
- Any Member may, within 120 days from the date of notification of a conservation and management measure, object to the measure; a Member which has objected to a measure is not bound to it. Any other Member may similarly object within a further period of 60 days from the expiry of the 120-day period. If objections to a measure are made by more than one-third of the Members of the Commission, the other Members shall not be bound by that measure, though this does not preclude any or all of them from giving effect to the measure.

Implementation
- Each Member shall ensure that action is taken to implement agreed measures under national legislation, including the imposition of adequate penalties for violations. Members shall cooperate, through the Commission, in the establishment of an appropriate system to keep under review the implementation of conservation and management measures, taking into account appropriate and effective tools and techniques to monitor fishing activities and gather scientific information.

Non-Parties
- The Commission shall endeavor to obtain fishing statistics from fishing States or entities which are not Members of the Commission.

Coastal States Rights
_ The Agreement does not prejudice the exercise of sovereign rights of a coastal state for the purposes of exploring and exploiting, conserving and managing the living resources, including highly migratory species, within a zone of up to 200 nautical miles under its jurisdiction.

Dispute Settlement
- Any dispute regarding the interpretation or application of the Agreement, if not settled by the Commission, shall be referred for settlement to a conciliation procedure to adopted by the Commission. The results of such conciliation procedure, while not binding in character, shall become the basis for renewed consideration by the parties concerned of the matter out of which the disagreement arose. If as a result of this procedure the dispute is not settled, it may be referred to the International Court of Justice in accordance with the Statute of the Court, unless the parties to the dispute agree to another method of settlement.

DRAFT

CONVENTION FOR THE CONSERVATION OF NORTH PACIFIC TUNAS

Negotiating parties:

The United States and Japan are consulting bilaterally on a text drafted by the United States.

Background:

The United States presented a non-paper on an "International Conservation and Management Regime for North Pacific Albacore Tuna" in June 1991 during a multi-topic meeting in Tokyo with former FAJ Director General Akio Kyoya. The non-paper proposed that the United States and Japan cooperate bilaterally in exploring joint approaches to address the conservation needs of North Pacific albacore. Japan has never responded formally to the non-paper.

In early January 1991, the United States submitted a draft text to Japan for its review and comment. The text was discussed with Takeshi Kubota, Director-General, Oceanic Fisheries Department, FAJ and other Japanese officials from FAJ and the Japanese Ministry of Foreign Affairs on January 15, 1993, at the conclusion of the Multilateral Conference on the Central Bering Sea in Washington. The Japanese side reserved its views and positions on all issues. Their strongest comment about any article was a muted "interesting".

In response to Japanese questions about possible next steps, the U.S. side noted U.S. interest in seeking a common U.S.-Japanese approach to the negotiation of the subject Convention before making the initiative a multilateral effort. Kubota suggested that the United States and Japan look for opportunities for bilateral consultations collateral to other meetings both sides might be attending. He noted that the next Central Bering Sea meeting in Tokyo in June 1993 would provide one such opportunity.

The United States indicated its interest in an expedited negotiating effort. In this regard, Kubota said he would initiate an interagency review of the draft in his government as soon as possible. Department of State recently inquired of the Japanese Embassy when the United States might expect official comment on the draft Convention. The Embasssy has agreed to convey U.S. eagerness for a response to Tokyo.

Major provisions:

Objective
- The objective of the Convention is to maintain populations of those species of tuna (listed in an Annex) which inhabit the North Pacific Ocean at levels of no less than those which produce long-term maximum sustainable yield.

Ecosystem management
- The Scientific Committee created by the Convention will, among other things, make recommendations to the Parties on measures concerning the conservation, management and rational utilization of Convention area tuna stocks, taking into account the effect of such measures on ecologically related species.

Decision-making
- All decisions made at the meetings of the Parties and by the Scientific Committee shall be made by consensus, unless there are four or more Parties, in which case decisions shall be made by three-fourths of the Parties present and voting.

Objections
- Within ninety days of the adoption of any conservation, management and other measure, any Party may notify the other Parties of its objection, in whole or part, to such measure to the extent such measure would apply within its 200-mile nautical fishery or exclusive economic zone. After a forty-five day comment and response period, the notifying Party shall not be bound by the measure within its zone. An objecting Party may later withdraw its objection.

Implementation
- Each Party shall take all actions necessary to enforce compliance by its nationals and vessels with measures adopted pursuant to this Convention.

- Each Party shall take appropriate measures aimed at preventing vessels registered under its laws and regulations from transferring their registration for the purpose of avoiding compliance with the provisions of the Convention or measures adopted pursuant to it.

- The Parties shall cooperate in jointly taking appropriate measures against any Party or non-Party whose actions or inactions significantly threaten the attainment of the objective of the Convention.

Dispute Settlement
- If any dispute arises between two or more of the Parties concerning the interpretation or application of the Convention, those Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their won choice.

- Any Party may invoke the dispute settlement provision it considers that any other Party has unreasonably withheld its agreement to adopt conservation and management measures or has unreasonably objected to the application of such measures, or has otherwise acted to defeat the objective of the Convention.

Non-Parties

- The Parties agree to encourage any State or entity not party to the Convention to adopt laws and regulations consistent with the provisions of the Convention and measures adopted thereto in regard to fishing operations conducted by its nationals, residents or vessels, and to cooperate in the attainment of the objective of the Convention.

- Accession to the Convention by States eligible to accede will be encouraged by the Parties.

- The Parties will invite the attention of any State or entity not a party to any matter relating to the fishing activities of its nationals, residents, or vessels which could adversely affect the attainment of the objective of the Convention.

- Each Party shall encourage its nationals not to participate in or support fishing activities for species of t;una listed in the Annex by nationals, residents, or vessels of any State or entity not party, where such participation or support could affect adversely the attainment of the objective of the Convention.

- The Parties shall cooperate in taking appropriate action, consistent with international law and their respective domestic laws, to deter fishing activities for species of tuna listed int he Annex by nationals, residents, or vessels of any State or entity not party to the Convention where such activity could adversely affect the attainment of the objective of the Convention.

1984

SHRIMP IN THE WESTERN GULF OF MEXICO -- A TRANSBOUNDARY STOCK

Ralph Rayburn and Kristin L. Vohrs
Texas Shrimp Association
403 Vaughn Building
Austin, Texas 78701

Abstract

Through the mid-1970's, much of the Gulf of Mexico shrimp harvesting industry was established and capitalized on the ability to shrimp in domestic waters of the U.S. and the waters off the Mexican coast; operating about ten to eleven months of the year.

In 1976, the Mexican government declared a 200 mile exclusive economic zone and negotiated a bilateral treaty with the U.S. to phase out all U.S. shrimping in their zone by January 1, 1980.

The shrimp stocks in the Western Gulf of Mexico are a resource shared by both Mexico and the United States. Results of joint U.S./Mexico shrimp migration studies indicate that shrimp cross the international boundary in both north-south and south-north directions. The management activities of each nation, therefore, impact those of the other.

In recent years, some of the South Texas fleet have shrimped in waters off the Mexican coast. The Mexicans operate almost entirely inshore and, therefore, the offshore resource is not being fully utilized. Until December, 1982, the Mexicans were not even enforcing their zone. This condition has now developed into conflict between the U.S. shrimp industry and Mexican gunboats and the U.S. shrimp industry and the U.S. Coast Guard.

1. Introduction

The warm water shrimp fishery of the United States originated in the bays and estuaries of the Gulf of Mexico. Fishery pioneers used large drag seines set close to shore and hauled by men or horses.

Using this method, shrimp harvesting was worthwhile only when shrimp were abundant near shore. The otter trawl was introduced into the shrimp fishery between 1912 and 1917. However, even using this gear, the fishermen continued to shrimp entirely in bays and shallow water. The otter trawl did reduce the seasonality of the fishery. Eventually the industry expanded and fishing grounds in the offshore region were discovered.

As the industry developed from its conception along the coastal shores to its current status as a multi-million dollar contributor to the economy, two distinctive sectors emerged. These are the Gulf shrimp fishery with larger vessels capable of sustained operation in the open Gulf of Mexico and the bay shrimp industry which is primarily smaller vessels which operate in state waters generally inside of the barrier islands.

As the shrimp industry expanded in the post World War II period, some members of the industry left their native Louisiana, Florida and other areas to establish a base of operation in Texas. During the late 1940's and early 1950's Texas had a resident requirement for shrimp licenses and new immigrants to the state were not allowed to catch or unload shrimp in state waters which extend out to 9 nautical miles. In response to this, a number of shrimpers settled in the Brownsville-Port Isabel area of south Texas and began fishing off the coast of Mexico.

STEVEN L. SWARTZ, Ph.D.
Principal Staff to the Senior Scientist
Office of the Senior Scientist for Fisheries

U.S. Department of Commerce
National Oceanic & Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1335 East-West Highway
Silver Spring, MD 20910

Off: (301) 713-2239
Fax: (301) 713-2258
FTS: 713-2239

United States Senate
WASHINGTON, DC 20510

Straddling stocks
Pacific Salmon

RECYCLED

5/18/93

- NOAA - Tom Laughlin, Arthur Patterson 482-6196
  - referred to Sissenwine & Beasley at Natl. Marine Fisheries

- Mike Sissenwine, Chief Scientist (301)-713-2239
  sending infor on status of US fishing stocks
  713-2272

- Hank Beasly, Intl. Fisheries Ofc (301) 713-2272
  spoke w/Robin Tuttle, sending FAO Technical Paper on International Fishing, FAO Status of Resources Report, Report on Organizational Meeting for Conference, and Calendar of events
  Robin Tuttle 2282

- Pat Montanio, Ofc. of Protected Resources (NOAA) (301)-713-2333
  - Salmon Project, will return call | intl.

- Lisa Speer | Sara Chasis (NRDC) (212)-727-2700
  - sending info on Pacific Salmon, Intl. Fisheries, Issues
  - referred to Nat Bingham, Head of Pacific ~~Coastal Federated Fisherman~~ Coast Fed of Fishermans Assn PCFFA
    - very knowlegable on m 707-937-4145
    Thane Thienson
  - Tribal Rob Lowstrop - Columbian Basin InterTribal Fish Commission (4 big Tribes) 503-238-0667

5/20 Referred by Marta Nammack in Ofc
of Protected Resources to Paul Niemeyer
in Ofc. of Intl. Affair 713-2276
re: Pacific salmon & Canada
- also ask about straddling stocks
5/21 - left message w/ Niemeyer's secretary

FORM CD-15
(12-6-73)
PRESCR. BY
DAO 214-2

U.S. DEPARTMENT OF COMMERCE

TRANSMIT/ROUTE

DATE: 6/15/93

NAME	BUILDING, ROOM OR REFERENCE NO.	TAKE ACTION BELOW	INITIALS AND DATE
Claire Bredenrich			
1. The information on			
the North Pacific			
tuna negotiations			
should be closely held			
since the U.S is			
still in very preliminary			
talks with Japan.			

ACTION ITEMS

1. APPROVAL/SIGNATURE
2. CLEARANCE/INITIALS
3. RECOMMENDATION OR COMMENT
4. RETURN WITH MORE DETAILS
5. INVESTIGATE AND REPORT
6. NOTE AND SEE ME
7. NOTE AND RETURN
8. NOTE AND FILE
9. YOUR INFORMATION
10. PER OUR CONVERSATION
11. AS REQUESTED
12. NECESSARY ACTION
13. CIRCULATE AMONG STAFF
14. ANSWER DIRECTLY
15. PREPARE REPLY FOR SIGNATURE

OF: ____________________

COMMENTS 2. These documents are intended as background for the U.S. delegation, not →

~~☐ Continued on reverse~~

FROM (Name)	BUILDING, ROOM OR REF. NO.	CODE AND EXTENSION

as information paper
for distribution at the U.N.
Conference. Thus,
none of them are public
documents, at this point.

3. I will send the paper
on scientific and policy
distinctions between
straddling stocks and
highly migratory species
after June 25th.

Peter LAWS

- letter to Ambassador LAURO
re: URUGUAY

SPS

Natural Resources
Defense Council

1350 New York Ave., N.W.
Washington, DC 20005
202 783-7800
Fax 202 783-5917

FAX

TO: Jim Barnes
Liz Cook
Clif Curtis
David Doniger
T.J. Glauthier
Scott Hajost
Walcott Henry
Doug Hopkins
Lee Kimball
Dan Lashof
Andy Palmer
Rafe Pomerance
Kenton Miller
Alden Meyers
Carl Safina and Mercedes Lee
Mike Sutton and Jody Cassell
David Wirth

PHOTOCOPY
PRESERVATION

May 21, 1993

(four pages total)

MEMORANDUM

TO: ENVIRONMENTAL EXPERTS ON INTERNATIONAL TREATIES AND CONVENTIONS

FROM: SARAH CHASIS, LISA SPEER, AND LIZ BARRATT-BROWN, NRDC

DATE: May 21, 1993

RE: JUNE 2, 1993 MEETING TO DISCUSS GOVERNANCE ISSUES RELATED TO IMPLEMENTATION OF POSSIBLE HIGH SEAS FISHERIES AGREEMENT

We would like to invite you to join representatives of NRDC, Greenpeace International, American Oceans Campaign, World Wildlife Fund, National Audubon, EDF and others at a meeting at NRDC's Washington office on June 2 from 9:30 to 11:30 to discuss the types of governance options and institutional mechanisms that could be used to implement a possible international agreement on high seas fisheries. We are holding this meeting because of the upcoming UN Conference on Straddling Stocks and Highly Migratory Species which will take place in New York this July. Your advice will be very helpful in the formulation of recommendations by the environmental community in preparation for this conference. It will also help inform our recommendations to the United States delegation.

Currently, there is no effective regime to regulate high seas fishing. As a result of the intense fishing efforts of about a dozen countries, a number of fish stocks are currently in sharp decline. Because of dramatically depleted stocks, there are currently moratoria on high seas fishing for certain stocks off the Grand Banks of Canada, in the Bering Sea "donut hole" and a unilaterally imposed prohibition on fishing in the Sea of Okhtosk off Russia's east coast. The decline in fish stocks worldwide is of concern for several reasons, including the threat posed to an otherwise renewable and important food source, the effect of such fishing on the larger food web and ocean ecology, and the dramatic and dislocating effect of these declines in fish stocks on coastal communities and economies. Clearly, something needs to be done to manage fishery resources of the world's oceans more effectively.

The UN Conference on Straddling Stocks and Highly Migratory Species called for by Agenda 21 will hopefully address the need for a more effective regime to regulate high seas fishing. There are a whole series of questions concerning how an effective regime might be structured. Here are some of the questions that will need to be addressed:

* How should such an agreement be structured--as a protocol or regulations under the Law of the Sea Convention (which is likely to go into effect at the end of this year or early next), as a completely separate convention or agreement, as a UN resolution (similar to the UN resolution outlawing driftnet fishing)?

* What kind of organization should be responsible for implementing an agreement? For example, should there be an international entity created comparable to the International Whaling Commission or the International Seabed Authority (under the Law of the Sea Convention)? Should reliance be placed on existing or newly created regional entities established pursuant to multi or bilateral agreements (of which there are currently several, none of which is very effective) with oversight from a Conference of the Parties which meets periodically? What role should the UN Commission on Sustainable Development have in reviewing implementation? Should countries execute national plans under a new agreement/protocol?

* What mechanisms can be used to secure effective implementation and enforcement of the agreement--how may trade sanctions be utilized, what dispute resolution mechanisms could be employed, how can public information concerning countries that are not complying be most effectively gathered and utilized? Are there good precedents for imposing a moratorium while an effective international regime is put in place?

These represent some of the questions we are facing. We would very much appreciate the opportunity to discuss these questions with people who have had experience with a variety of other international negotiations and agreements to benefit from their experience.

Please fill out and send us the attached sheet to let us know if you can join us. Many thanks for your help!

Natural Resources
Defense Council

40 West 20th Street
New York, New York 10011
212 727-2700
Fax 212 727-1773

May 14, 1993

David Doniger
Old Executive Office Building, Room 365
Washington, D.C. 20503

Dear David:

Thanks so much for meeting with us last week. We are thrilled you will be handling ocean issues!

Enclosed is a good overview of the current regime governing fishing on the high seas put together by the Law of the Sea office at the U.N. I have also enclosed a couple of papers by FAO that provide some background.

We are tentatively planning a meeting to discuss institutional mechanisms for implementing a high seas regime for June 8th or 9th. It would be great if you could make it. Could you let us know of your availability?

Best wishes,

Lisa

Lisa Speer

June
- ~~May~~ 8th or 9th should be okay in DC
- supposed to be in NY night of [illegible]
Aft. 8th, morning of 9th better

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Washington, DC 20005
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617 South Olive Street
Los Angeles, CA 90014
213 892-1500
Fax 213 629-5389

212 Merchant St., Suite 203
Honolulu, Hawai'i 96813
808 533-1075
Fax 808 521-6841

Thanks
PJ

United States Department of State

Bureau of Oceans and International
Environmental and Scientific Affairs

Washington, D.C. 20520

July 14, 1993

UNCLASSIFIED
MEMORANDUM

TO: OES - Ambassador Elinor Constable

FROM: OES/O - David Colson

SUBJECT: Pacific Salmon Commission, U.S.-Canada

ISSUE:

Whether to sign the attached letter to the U.S. Commissioners to the Pacific Salmon Commission, triggering provisions of law that require the U.S. Section to develop national positions within a particular time frame.

BACKGROUND:

One of the unfortunate facts of the Pacific Salmon Commission is that the U.S. has difficulty reaching internal agreement on chinook salmon matters due to strong differences between the north (Alaska) and the South (Washington, Oregon). Our internal inability to compromise hinders the development of responsible chinook management programs.

In connection with 1993 deal with Canada, the governments agreed to require the bilateral Commission to develop a chinook management program by January 15, 1994 and to report to the governments. There will be a government to government meeting if the Commission fails.

Our U.S. Section needs to develop chinook positions quickly and we need to do what we can to force compromise internally in the development of a good U.S. position. One tool we have is provided in the Pacific Salmon Treaty Act. It indicates that the Secretary of State may communicate to the U.S. Commissioners that the U.S. is in jeopardy of not fulfilling its obligations and require the development of a U.S. position by a date certain. If the Commissioners do not comply, the law provides for the Secretary to report to the President. This is largely a political forcing mechanism without direct legal consequence.

You have been delegated the authority to act for the Secretary of State. Following consultations with Commerce and Interior, I believe it would be useful to the U.S. Section process for you to sign the attached letter.

I do not expect any significant negative reaction although there may be some grumbling from Alaska. The Washington and Oregon interests will welcome this move.

I will give the Hill and the Commissioners a heads-up before they see the letter in writing.

RECOMMENDATION:

That you sign the attached letter.

United States Department of State

Bureau of Oceans and International Environmental and Scientific Affairs

Washington, D.C. 20520

UNITED STATES SECTION, PACIFIC SALMON COMMISSION

Ambassador David A. Colson
Deputy Assistant Secretary for Oceans
& Fisheries Affairs

Mr. G. I. James
Lummi Indian Tribe

Mr. Charles Meacham, Jr.
Deputy Commissioner
Alaska Department of Fish & Game

Mr. Robert A. Turner
Commissioner
Washington Department of Fisheries

Pursuant to authority delegated to me, (50 Fed. Reg. 28487) and after consultation with the Department of Commerce and the Department of Interior, and in accordance with 16 USC 3632(g)(7), I hereby determine that the United States is in jeopardy of not fulfilling its international obligations under the United States-Canada Pacific Salmon Treaty and so certify to the United States Section. It is understood that Canada bears responsibility in this regard, as well.

The reason for such determination follows:

A central ingredient of the Pacific Salmon Treaty is the chinook rebuilding program it established designed to rebuild chinook stocks on a coast-wide basis by 1998.

It is now 1993 and the Pacific Salmon Commission has not addressed this issue in any effective way. Nor has the U.S. Section adopted an agreed approach to deal with this matter. The bilateral Chinook Technical Committee Report of November 17, 1992 states in part (at Executive Summary, p. xii):

"The rebuilding response of the escapement indicator stocks is inconsistent with expectations. There has been a general decline in the proportion of stocks that are classified as rebuilding, while the proportion of stocks that are not rebuilding has increased. Furthermore, 29 of the 42 indicator stocks had lower escapements in 1991 than in 1990 and less than half (16 of 36) of the escapement indicator stocks with goals are currently classified as Above Goal, Rebuilding, or Probably Rebuilding. This is especially significant since most stocks are now more than halfway and the remainder are more than two-thirds through their rebuilding programs. Of particular concern are the 15 stocks classified as Not Rebuilding or Probably Not Rebuilding. In 1991, the escapements of all of these stocks were less than 60% of their rebuilding goals and, for seven of these 15 stocks, the average escapement during the rebuilding period has actually declined from the base period level."

The United States Government and the Canadian Government have agreed that the Commission shall report to the Governments by January 15, 1994, on the progress it has made to achieve the rebuilding program required by the Treaty. This Report shall:

i) Provide definitions needed for the consideration or evaluation of the rebuilding program including: "rebuilt," "rebuilding," "stock of concern," "depressed stock," "escapement indicator stock," and "pass through."

ii) Provide a program to monitor and reduce incidental chinook mortalities on a coast-wide basis.

iii) Provide a chinook management program that is responsive to the abundance of chinook stocks to ensure that the Treaty's chinook rebuilding goals are met by 1998.

In accordance with 16 USC 3632(g)(7), I specify that January 15, 1994, is the date by which a decision by the U.S. Section concerning the above elements is desired. It is of course preferable that the Report to be provided by the bilateral Commission contain jointly agreed recommendations of the U.S. and Canadian Sections. If that is not possible, however, a clear and comprehensive U.S. Section position on the above elements expressed in operational terms, which can be proferred in good faith by the United States, is required by the above date.

Sincerely,

Elinor G. Constable

NOTES for CANADA desk

U.S.-CANADA PACIFIC SALMON COMMISSION

(Apr.'93)

A Deal for 1993?

- Dependent primarily on whether we can agree on the 1993 Fraser catch for the U.S. The power centers are Washington State, the Tribes, and Canada; it is not clear where the Tribes are on this right now.
- If we can get a one-year Fraser deal, Canada probably would agree to a 1.6 million coho cap which would provide Washington State with some relief.

Longer Term:

- If we are to get a longer term arrangement that is satisfactory to our constituents by providing for stability in fisheries and catch quotas that are responsive to conservation concerns, we need to do three things:

  a) We need to address the equity question; until we reach some understanding on this -- or at least make a good try at it -- the Treaty will not come out of its death spiral.

  b) We need to address the question of Washington/Oregon salmon production. Canada's vision is one of declining production in the South. That means Canada can not see how we can provide balance for our catch of Fraser sockeye. Further, it makes it politically difficult for Canada to help with U.S. stock conservation concerns because they see it as a lost cause where they get no return on the investment.

  c) We need to bring about some general level of satisfaction that Alaska's management of its fisheries does not have ulterior motives, and consider means by which increased Canadian production into Alaskan fisheries gets back to Canada where possible, without disrupting traditional Alaskan fisheries on Alaskan stocks.

Message to Canada

- Canada's rigid approach to equity (fish for fish trades -- and they start in the hole) will not work: we won't accept that they started in the hole, and fish for fish trades don't work because of the dynamic nature of the fisheries, the need to deal with stock conservation problems, and the political need in both countries to respond to a diversity of constituent interests.
- The U.S. has helped Canada rebuild the Fraser runs; Canada is not helping us with chinook/coho conservation problems.

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PACIFIC SALMON COMMISSION

We understand that Prime Minister Mulroney has been briefed on the Pacific Salmon Commission and may discuss the status of its deliberations.

The Pacific Salmon Treaty between the United States and Canada entered into force in 1985 after 14 years of negotiation. The Treaty established bilateral cooperation in management, research and enhancement of salmon stocks that originate in one country but pass though the fisheries of the other. The Pacific Salmon Commission is the decision-making body for matters covered by the Treaty.

The Commission's deliberations for 1993 are particularly contentious because:

-- almost all the rules established in the Treaty expired at the end of 1992 and are open for negotiation; and

-- Snake River fall chinook salmon have been listed as a "threatened" species under the Endangered Species Act.

The listing has drawn inordinate political attention to the Commission. The stock is caught coast-wide, particularly in Canadian fisheries off the West coast of Vancouver island. U.S. interests want Canada to make substantial reductions in its fisheries so that U.S. interests need not do as much to protect the threatened stock. Canada has said it would help but it wants something in return.

Canada believes the equity balance of benefits under the treaty strongly favors the U.S., and is not prepared to do more for the U.S. unless we move in its direction. (We have hinted that we might be willing to address this issue on a government-to-government basis if other U.S. concerns are met).

At present, no U.S. interest is prepared to pay the price for Canada's apparent willingness to reduce the take from its fisheries. Canadian officials are actively pressing their views in Washington.

We strongly disagree with Canadian arguments but have indicated a willingness for the Commission to meet again on this matter in April.

-- Canada has refused to acknowledge many points of concern to U.S. interests.

-- If there is to be an agreement this year Canada must be much more flexible than it has heretofore been.

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Drafted: OES/OFA:JJFinnegan,Jr.
03/31/93 SEOFAA 3285 x72883

Clearance:OES/O:DAColson
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EUR/CA:JBauman

TELEFAX COVER SHEET

United States Department of State

Bureau of Oceans and International Environmental and Scientific Affairs

Washington, D.C. 20520

DATE May 14, 1993 TIME

NUMBER OF PAGES TO FOLLOW: 11

TO: Ms. Eileen Claussen TEL.# 395-4985

OFFICE: NSC - OEOB FAX#: 395-1590

****

FROM: Mr. David Colson TEL.# 647-2396

OFFICE: Oceans & Fisheries Affairs FAX#: 647-2396

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MESSAGE:

I did not include the incoming congressional correspondence with this package.

Marilyn make ~~another copy~~ 2 more copies

for Doniger

United States Department of State

Washington, D. C. 20520

MAY

BRIEFING MEMORANDUM
S/S

UNCLASSIFIED

TO: C - Mr. Wirth

FROM: OES - Curtis Bohlen CS

SUBJECT: Your Meeting with Canadian Ambassador de Chastalain and Minster of Fisheries and Oceans Crosbie, Your Office, 3:30 pm, Monday, May 17, 1993

I. OBJECTIVES

1. To listen to Canada regarding its straddling stock problem off the Grand Banks of Newfoundland.

2. To hear Canada out on complaints it has about the inability of the U.S.-Canada Pacific Salmon Commission to come to agreement on fishing regimes for west coast salmon fisheries in 1993.

3. To stress to Canada that our west coast salmon relationship is a two way street and that Canada has not moved in our direction on a number of issues sufficiently far to bring about requisite flexibility from U.S. constituents.

II. APPROACH

Minister Crosbie may briefly raise the upcoming UN Conference on Straddling Fish Stocks and Highly Migratory Fish Species, which Canada called for at UNCED last year. Canada may seek our support that the Conference should result in a legally-binding international agreement for the conservation and management of such fish stocks.

We can not accept the linkage Canada has made between straddling stocks and highly migratory species and that similar remedies should be applied to problems of both. Further, a binding global treaty is unrealistic:

Regarding Pacific Salmon, Canada will complain about the impasse which has been reached in the U.S.-Canada Pacific Salmon Commission on the establishment of agreed salmon fishing regimes for the west coast for 1993.

This impasse is not the end of the world. Neither country wants a fish war. The managers on both sides probably will be responsible. Canada will present itself as the aggrieved party; blame the present deadlock on splits within the U.S. Section between Alaskan and Washington State interests; and assert that the U.S. is not fairly implementing the Salmon Treaty's equity principle. Canada may press for additional meetings of the Commission or at a government-to-government level.

We suggest you hear the Canadians out and respond by stressing: (1) that U.S. constituent interests do not believe Canada is doing enough to meet U.S. needs; (2) that U.S. decision-making rests with the States and Treaty Tribes; (3) and that we will keep the lines of communication open, but another meeting would be premature unless there is some sense of how we would come to closure on the array of issues.

III. PARTICIPANTS

U.S.	Canada
Mr. Wirth OES/O - Mr. Colson	Ambassador de Chastalain Minister of Fisheries and Oceans Crosbie
C - Mr. Harwood OES/OFA - Mr. Finnegan (notetaker)	Mr. Kergin (notetaker)

Attachments:

Tab 1 - Background Paper/Talking Points: Straddling Stocks and Highly Migratory Species
Tab 2 - Background Paper: PSC
Tab 3 - Talking Points: PSC
Tab 4 - Congressional PSC Correspondence

Drafted:OES/O:DAColson:eb
72396 5/7/93 SEOFAA 3356

Cleared:OES/OFA:LSpead
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Attachment I

United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Species

Background

- o Last year at UNCED Canada called for measures to strengthen international law to prevent overfishing on the high seas.

  -- Canadian cod stocks off its Atlantic Coast have been seriously overfished by European vessels fishing just outside the Canadian 200-mile zone. The stock is a classic "straddling stock", living both within and outside the 200-mile EEZ. Foreign vessels are, of course, free to fish on the high seas beyond the 200-mile zone.

- o UNCED agreed that an intergovernmental conference should be held, which last fall's UN General Assembly subsequently approved.

- o The Conference is to promote effective implementation of the provisions of the United Nations Convention on the Law of the Sea (UNCLOS) on straddling fish stocks and highly migratory fish species by: (1) identifying and assessing existing problems related to the conservation and management of such fish stocks, (2) considering means of improving fisheries cooperation among States, and (3) formulating appropriate recommendations.

  -- The work and results of the conference are to be fully consistent with UNCLOS, in particular the rights and obligations of coastal States and States fishing on the high seas.

- o In order to gain support for its position, Canada has been a primary proponent of the "Santiago Declaration". This document proposes principles and measures for the effective conservation of high seas fishery resources, but does so in such a way that could harm U.S. interests. Particularly, it proposes that similar management measures for straddling stocks and highly migratory species should be taken. We can not accept such an approach. It is not consistent with the Law of the Sea, which distinctly treats each stock separately.

What approach?

why?

Why - interest? or workability?

- Canada and its "core group" (Argentina, Chile, Iceland, New Zealand) have indicated that they are looking for a new global legal regime. We can not support such an approach either. Rather, we believe that non-binding guidelines or principles which could be applied on a regional, case-by-case basis would be more achievable and serve a better purpose.

get Teplitz

- Canada has called for an intersessional meeting in New York later this month of a small number of key countries on both side of the issue. We have expressed reservations about this approach as countries not invited might misread intentions and believe that the session might bias the outcome of the July session. We will participate if Canada proceeds.

Talking Points

- We thoroughly sympathize with Canada regarding its "straddling stock" problem off the Grand Banks of Newfoundland.

- We look forward to the possibility that the UN Conference will elaborate on the rights and duties of coastal States and States fishing on the high seas. However, in our opinion, the examination must include discussion of measures applicable to areas under national jurisdiction as well as the high seas.

get this declaration

- We continue to have serious concerns about the "Santiago Declaration". It promotes a relationship between straddling stocks and highly migratory species that is not founded in the 1982 United Nations Convention on the Law of the Sea.

not at low meeting, surely, but why not part of a defined process to reach a treaty?

- We also believe that it is unrealistic to set as a conference objective a binding, legal treaty.

- The U.S. has played a useful broker role and will continue to do so long as is in the U.S. interest.

Attachment II

Pacific Salmon Commission

Background

- Salmon which originate in U.S. rivers are often caught ("intercepted") in Canadian fisheries before they return to U.S. waters, and vice versa.

- The U.S. and Canada have been arguing about the balance of these interceptions since the early 1900s.

- The U.S.-Canada Pacific Salmon Treaty was concluded in 1985 to conserve and manage west coast salmon fisheries and to reconcile and balance interceptions by establishing agreed management and allocation regimes from Southeast Alaska to Oregon.

- Most fishing regimes established by the Treaty in 1985 have expired and are to be renegotiated by the Commission established by the Treaty.

- The Commission has reached an impasse in its effort to do so for the 1993 fishing season.

U.S. Politics/Law

- There are wide differences between and among U.S. Northern (Alaska) and U.S. Southern (Washington, Oregon, Idaho and Treaty Tribes) interests.

- Under U.S. law, decisions in the Commission by the United States are made by consensus of the Commissioners from Alaska, Washington, and the Treaty Tribes. The Federal Commissioner has no vote.

- This year, Snake River Fall chinook salmon has been listed as a threatened species under the Endangered Species Act (ESA). This salmon is caught coast wide, but most are caught in Canadian fisheries. This listing has complicated U.S. decision-making in the Commission.

  - The U.S. side is faced with several other potential ESA salmon listings. This creates a political situation on the west coast akin to the spotted owl problem, although this time Canada is involved.

- The Treaty Tribes are entitled by law to 50% of the salmon harvest in Washington and Oregon (Boldt decision). In respect of Alaskan fisheries, this is an open legal question and is politically controversial.

- Canadian positions often divide the U.S. community by playing off Washington State and Alaskan interests and/or playing into the controversy surrounding Boldt decision application.

- The Salmon Treaty enjoyed wide support initially within the U.S. although the Alaskans were always nervous. Washington State and Tribal support is now beginning to wane. It's hard to identify what U.S. constituents get from this deal - the only answer is that stock conservation problems would be worse without it.

Canada's Interests

1. Equity

o Canada's principal interest is the promotion of the equity principle: that catches reflect salmon production. Canada's view of equity has two elements.

o Canada believes that the fishing regimes established in the Treaty in 1985 were unfair to Canada in this respect and that new regimes must be negotiated to redress this perceived imbalance.

o Further, Canada will not make a move on anything unless it is convinced that its equity position is not worsened.

o For instance, when we request Canada to reduce Canadian catches on Snake River Fall chinook for conservation reasons, Canada demands that the U.S. reduce its catches of Canadian stocks somewhere else.

o This raises two problems for us: one, the U.S. beneficiary of a reduction in Canadian catch is not likely to be the one that is asked to pay the price; two, as a matter of philosophy, Canada refuses to help us on a conservation problem without being compensated from reductions in traditional U.S. fisheries on healthy salmon stocks.

o Canada's perspective on this issue, and Canada's rigidity, are the primary causes of the breakdown in the process.

o Note: Generally, at a technical level we can tell what species of salmon are caught in various west coast fisheries. Where the debate gets complicated is that the U.S. and Canada don't intercept fish of comparable value. Generally, U.S. interceptions are of Canadian sockeye and pink salmon while Canadian interceptions are of U.S. chinook and coho, mostly. These species all have different commercial values, which vary; Canada catches U.S. chinook and coho commercially, which would otherwise enter high-value U.S. recreational fisheries.

2. Fraser River

- Canada's Fraser River is perhaps the world's greatest salmon producing river.

- Canada has kept hydro projects off the river. Canada often contrasts its salmon stewardship of the Fraser with U.S. use of the Columbia River. Puget Sound fishermen, however, always remind Canada that it was the U.S. Corps of Engineers that unblocked the river from an enormous landslide in the 1930s and saved the River for salmon production.

- Fraser River stocks are subject to interception in major U.S. fisheries in the Strait of Juan de Fuca and Puget Sound - including large Tribal fisheries.

- The U.S. has always cooperated with Canada in the management of U.S. fisheries on Fraser stocks.

- Together, we have rebuilt these runs to historic levels, demonstrating the benefits of cooperation. But Canada wants all the benefits of that cooperation for itself. Thus, for the future, as we look at increased Fraser runs, Canada refuses to consider any increase for U.S. fisheries. That is dispute number one.

- Because of the vastly increased run sizes, some Fraser fish have been caught incidentally in recent years in Alaskan fisheries. Canada demands that we count these Alaskan incidental catches against our Washington State quota. Canada says that we owe Canada for what was caught incidentally in Alaska over the last eight years - approximately 330,00 sockeye. We say no and that is dispute number two. Dispute number three: Canada says that future deals must make clear that Alaskan incidental catches count against our Washington quota. Again we say no because that would cause major difficulties in implementing the Boldt decision.

3. Alaska

- o Canada believes that Alaskan fisheries are shaped to target Canadian stocks. Canada calls for significant adjustments in major Alaskan fisheries on Alaskan stocks to allow small amounts of Canadian fish to pass through.

  - It is hard to discern the truth in all of this -- much of it well established in dockside folklore. Alaska has been willing to make adjustments in its fisheries for demonstrated conservation concerns.

This Year's Impasse

- o In October 1992 the Commission began its normal meeting schedule in an effort to renegotiate the expired fishing regimes. Both sides sought to negotiate regimes for an extended period of years.

- o At December 1992 meetings both sides laid out comprehensive positions. Negotiations during January and February did little to narrow the differences.

- o In late March 1993 both sides began to talk of a one year status quo deal.

- o We let it be known that we would do a one year status quo deal generally; asked the Canadians to reduce their coho catch on the West Coast of Vancouver Island for conservation reasons from 1.8 to 1.4 million coho annually; and indicated in return that we would begin to talk about equity on a government-to-government basis.

- o Canada agreed to a status quo deal but defined it very differently, basically by continuing to ask for adjustments in Alaskan fisheries and in reductions in our Fraser River catch.

- o Numerous phone calls, another meeting of the Commission, and more phone calls only led to the conclusion on April 30 that we were at impasse.

- o Generally, the big difference was about the U.S. Fraser catch for 1993 We wanted 2.6 million sockeye in Washington state. The Tribes won't go below that. Canada offered about 2.25 million sockeye wherever caught, including Alaska.

- (Note: if Canada will agree to 2.6 million sockeye in Washington State and a 1.6 million coho catch on the West coast of Vancouver Island we could probably pull our team together to accept it).

- After the declaration of impasse, we instructed our fisheries managers on the west coast to begin informal consultations with Canadian managers so as to keep the lid on things as best we can.

- We assume that sometime this summer we should sit down on a government-to-government basis to discuss some of this and to try to shape Commission discussions next fall. But we shouldn't do that until some time has passed, and we have had a chance to set the stage for a productive meeting. by doing what?

- (Final Note: As a means of indicating Canada's political interest in this Commission process, it has appointed Yves Fortier as its lead Commissioner. Fortier is a high-profile Canadian, former U.N. Ambassador, "trouble-shooter," friend of the Prime Minister and partner in a prestigious Montreal law firm.)

Attachment III

Talking Points On Pacific Salmon Commission

- o I am happy to have your perspective on these Pacific Salmon Treaty issues..

- o On our side, the states and tribal governments must concur in decisions which affect state waters and their management authority.

- o Our constituent interests do not believe Canada is doing enough:

  - to share the burden in solving stock conservation problems; and

  - to share the benefits of increased production as a result of mutual efforts.

- o On equity:

  - A rigid fish by fish, value by value approach to this issue is not going to work.

  - Canada cannot expect the U.S. to accept Canada's contention that the original treaty was out of balance.

  - The Administration is prepared to discuss the equity question on a government-to-government basis at an appropriate time.

- o On process:

  - We will keep lines of communication open; however, it would be premature to schedule meetings until we have a better idea of where we both could come out.

UNITED NATIONS

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29 July 1993

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UNITED NATIONS CONFERENCE
ON STRADDLING FISH
STOCKS AND HIGHLY
MIGRATORY FISH STOCKS
New York, 12-30 July 1993

NEGOTIATING TEXT

Prepared by the Chairman of the Conference

Introduction

1. The present text has been prepared by the Chairman in response to the request of the Conference. Its purpose is to provide the Conference with a basic negotiating text on the issues under consideration. In the preparation of this text account has been taken of the discussions on the substantive issues and also of the various proposals and position papers submitted by delegations.

2. The Chairman's negotiating text does not prejudice the position of any delegation on the substantive matters referred to therein. It is put forward only as a negotiating instrument.

3. The Chairman would like to acknowledge, with appreciation, the contributions of the delegations in the preparation of this text, and in particular the invaluable assistance provided to him by a number of experts at the Conference who readily availed themselves whenever necessary to guide him on some of the more technical issues.

I. THE NATURE OF CONSERVATION AND MANAGEMENT MEASURES TO BE ESTABLISHED THROUGH COOPERATION

4. Coastal States and States fishing on the high sear shall cooperate to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks on the high seas. States 1/ shall give effect to the duty to cooperate by establishing conservation and management measures for straddling fish stocks and highly migratory fish stocks and commit themselves to responsible fishing, in a manner consistent with the relevant provisions of the United Nations Convention on the Law of the Sea. They shall:

(a) On the basis of the best scientific evidence available, ensure that conservation and management measures are directed at maintaining or restoring stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;

(b) Adopt conservation and management measures which may include, inter alia:

(i) Total allowable catches and quotas;

(ii) Limits to fishing effort (e.g. number of vessels or fishing days);

(iii) Fish size limits or other measures to promote optimum utilization of targeted species;

(iv) Gear restrictions (e.g. minimum mesh sizes);

(v) Area and seasonal closures;

(c) Promote optimum utilization and ensure long-term sustainability of the fish stock(s) concerned;

(d) Take into consideration the effects on ecologically related species with a view to maintaining or restoring populations of associated or dependent species above levels at which their reproduction may become seriously threatened;

(e) Promote the development and use of environmentally safe and cost effective fishing techniques in order to minimize pollution, waste, discards and the catching of untargeted species, in particular endangered species, taking into account the need for protecting biodiversity and the need for multi-species ecosystems-oriented management;

(f) Take into account the special requirements of developing countries in relation to the stock(s) concerned, including:

(i) The vulnerability of developing countries, particularly small island developing countries whose populations are culturally and economically dependent on marine resources, especially in terms of the impact on subsistence fisheries and the nutritional requirements of coastal communities;

(ii) Allowing for favourable access for developing countries located in the region or subregion to participate in high seas fisheries for straddling fish stocks and highly migratory species;

(iii) Assistance to developing countries including financial, scientific and technological assistance and training, in order that they can fulfil their obligations with respect to conservation and management of straddling fish stocks and highly migratory fish stocks and their interest in development of fisheries for the stock(s);

(g) Enhance the level of certainty in management decision-making by collecting and sharing timely, complete and accurate data from fishing activities, inter alia, on position, catch, by-catch and fishing effort as referred to in annex 1, as well as information from national and international research programmes;

(h) Promote scientific research in support of fishery conservation and management, including continuous review of the status of stocks, abundance surveys and biological studies on targeted and non-targeted species, as well as research on oceanographic, climatic and other environmental factors;

(i) Achieve coherent and coordinated conservation and management measures to protect targeted stocks and ecologically related species from over-exploitation by adopting an approach which takes into account the interdependence of stock components on the high seas and in areas under national jurisdiction;

(j) Ensure that conservation measures do not discriminate in form or fact against the fishermen of any State.

5. In order to protect the environment and the living marine resources, the precautionary approach shall be applied widely by States to fisheries management and exploitation, in the following manner:

(a) States shall act so as to obtain and share the best scientific evidence available in support of conservation and management decision-making. States shall take into account, inter alia, uncertainties with respect to the size and productivity of the targeted stock(s), the levels and distributions of fishing mortality, the impact of fishing activities on associated and dependent species and variations in other relevant factors, including climatic, oceanic and environmental changes;

(b) The absence of adequate scientific information shall not be used as the reason for failing to take strict measures to protect the resource;

(c) Use of the precautionary approach shall include all appropriate techniques including, where necessary, the application of moratoria;

(d) In cases where the status of stocks is of concern, strict conservation and management measures shall be applied and shall be subject to enhanced monitoring in order to review continuously the status of stock(s) and the efficacy of the measures to facilitate revision of such measures in the light of new scientific evidence;

(e) In the case of new or exploratory fisheries, conservative catch and/or effort limits shall be established as soon as possible and shall remain in force until there are sufficient data to allow assessment of the impact of the fishery on the long-term sustainability of the stock(s) and associated ecosystems.

II. MECHANISMS FOR INTERNATIONAL COOPERATION

6. Coastal States and States fishing on the high seas shall, in accordance with the Convention, pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks bilaterally and/or multilaterally through regional fisheries management organizations or consultative arrangements taking into account the specific characteristics of the region or subregion. Consultations shall be initiated on the request of any interested State.

7. As a minimum, the purpose of such cooperation shall be to agree on conservation and management measures with respect to particular fish stock(s) to ensure the long-term sustainability of those stock(s).

8. States shall enter into consultations in good faith and without delay, particularly where there is evidence that the stock(s) concerned may be under threat of over-exploitation. While differences remain, they shall act in good faith to conserve such stocks in a manner which does not constitute an abuse of rights and with due regard to the rights, interests and obligations of other States.

9. Where a regional or subregional fisheries management organization or arrangement has the mandate and competence to establish conservation and management measures for particular straddling fish stock(s) or highly migratory fish stock(s), States fishing for the stock(s) on the high seas and coastal States with an interest in the stock(s), shall give effect to their duty to cooperate by participating in the work of the regional organization or arrangement, in accordance with the mandate and terms of participation of that organization or arrangement.

10. Regional and subregional fisheries management organizations and arrangements shall be open to participation, on a non-discriminatory basis, to all States with an interest in the stock(s) concerned.

11. States with an interest in the stock(s) concerned which are not parties to an existing competent regional or subregional fisheries management organization shall be encouraged to participate in the work of that organization.

12. Only those States that participate in the work of a regional fisheries management organization or arrangement, or that otherwise cooperate with the applicable conservation and management measures, should have access to the regulated fishery.

13. New members of a regional fisheries management organization or parties to an arrangement shall generally be entitled to accrue benefits in exchange for the obligations that they undertake. This shall include equitable allocation of participatory rights, taking into account, <u>inter alia</u>:

(a) The status of the stock(s) in question and the existing levels of fishing effort in the fishery;

(b) The prior contribution of the non-party to conservation and management of the stock(s), to the collection and provision of accurate data and to the conduct of scientific research on the stock(s);

/...

(c) The interests of existing participants whose coastal communities are dependent on fishing for the stock(s);

(d) The historical fishing patterns of the non-party;

(e) The special requirements of developing countries from the region or subregion, particularly where they are culturally and/or economically dependent on marine resources.

14. Where no subregional or regional fisheries management organization or arrangement exists to establish conservation and management measures for particular straddling fish stock(s) or highly migratory fish stock(s), States should enter into agreements or arrangements to ensure effective conservation and management of the stock(s) in question.

15. In establishing regional or subregional fisheries management organizations or arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks on the high seas, States shall agree, inter alia, on the following:

(a) The fish stock(s) to which the conservation and management measures shall apply, taking into account the biological characteristics of the stock(s) concerned and the nature of the fisheries involved;

(b) The area to be covered, taking into account the relevant characteristics of the region, including socio-economic, geographic and environmental factors;

(c) How the new organization or arrangement will relate to the role, objectives and operations of any existing fisheries organizations or arrangements;

(d) The mechanisms by which the organization or arrangement will obtain scientific advice and review the status of the stock(s) in question including, where appropriate, the establishment of a scientific advisory body;

(e) Mechanisms to ensure effective enforcement of conservation and management measures.

16. States shall cooperate to strengthen existing regional and subregional fisheries management organizations and arrangements in order to improve their effectiveness in establishing and implementing conservation and management measures for straddling fish stocks and highly migratory fish stocks.

17. In implementing the provisions of paragraphs 6 to 15 above, States shall give effect, at the regional level, to the provisions of the United Nations Convention on the Law of the Sea and other international agreements consistent with the Convention concerning the conservation and management of straddling fish stocks and highly migratory fish stocks.

/...

III. REGIONAL FISHERIES MANAGEMENT ORGANIZATIONS OR ARRANGEMENTS

18. Coastal States and States fishing on the high seas which participate in a regional or subregional fisheries management organization or arrangement shall agree on and comply with conservation and management measures to ensure sustainability of the stock(s) in question. They shall also:

(a) Agree, as appropriate, on allocations of quota or of effort limits;

(b) Adopt and apply international minimum standards for the responsible conduct of fishing operations;

(c) Develop agreed standards for collection, reporting, verification and exchange of data and information on fisheries for the stock(s) in question;

(d) Compile and disseminate accurate and complete statistical data, as described in annex 1, relating to catches of targeted stock(s) and non-targeted species (both fish and non-fish) and any other relevant information necessary to ensure that the best scientific evidence is available, while maintaining confidentiality where appropriate;

(e) Conduct and disseminate the results of scientific analyses of data on the stocks(s) and scientific research on relevant factors, including environmental and oceanographic factors;

(f) Establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;

(g) Develop and use environmentally safe and cost-effective fishing techniques in order to minimize pollution, waste, discards and the catching of untargeted species, in particular endangered species, taking into account the need for protecting biodiversity;

(h) Agree on the means by which the activities of the organization or arrangement will be financed, bearing in mind the relative benefits derived from the fishery and differing capacities of countries, especially the developing coastal States, to provide financial and other contributions;

(i) Agree on measures to deter non-parties from undermining the effectiveness of conservation and management measures established by the organization or arrangement in a manner consistent with international law;

(j) Agree on means by which the fishing interests of new entrants will be accommodated, having regard to the interests of both new entrants and existing participants, their respective contributions to conservation and management of stock(s), the status of stocks and the special requirements of new entrants from developing countries of the same region or subregion;

(k) Agree on decision-making processes which facilitate timely and effective determination of conservation and management measures;

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(l) Provide procedures for compulsory settlement of disputes concerning conservation and management measures, consistent with the relevant provisions of the United Nations Convention on the Law of the Sea. Procedures for settlement of disputes shall be applicable to all members of the organization or parties to the arrangement, including those which may not be parties to the Convention;

(m) Consult, cooperate and coordinate, as appropriate, with other relevant fisheries organizations and arrangements;

(n) Establish procedures for regular review of the effectiveness of the organization or arrangement.

19. In establishing a regional fisheries management organization or arrangement in respect of an enclosed or semi-enclosed sea, States shall comply with the provisions of article 123 of the United Nations Convention on the Law of the Sea.

20. In giving effect to their duty to cooperate by participating in the work of the regional or subregional fisheries management organization or arrangement, States shall:

(a) Ensure that data collection and processing adequately meet scientific assessment requirements and support management objectives;

(b) Compile and submit the catch, effort and other relevant data referred to in annex 1 within an agreed format and time-frame;

(c) Develop and share new resource assessment methodologies, management models and other analytical techniques;

(d) Cooperate in scientific analyses of data on the stock(s) and in the dissemination of results of assessments and relevant information on the fisheries to interested parties;

(e) Develop the use of environmentally safe and cost-effective fishing gear, technologies and practices in order to minimize pollution, waste, discards and untargeted catches by their vessels and nationals;

(f) Ensure the full cooperation of their relevant national agencies and industries in the agreed work of regional or subregional fisheries management organization or arrangement.

21. Regional fisheries organizations should be transparent. Representatives from other intergovernmental organizations and non-governmental organizations concerned with straddling fish stocks and highly migratory fish stocks shall be afforded the opportunity to participate in meetings of such bodies as observers or as otherwise appropriate.

IV. FLAG STATE RESPONSIBILITIES

22. Conservation and management measures for straddling fish stocks and highly migratory fish stocks must be effectively applied. To this end, flag States whose vessels fish on the high seas shall take the necessary measures to ensure that their vessels comply with regional or subregional conservation and management measures. Measures to be taken by the flag State should include:

(a) Cooperation in effective monitoring, control and surveillance of fishing vessels, fishing activities and related activities, either bilaterally or through regional fisheries management organizations or arrangements;

(b) Control of vessels flying its flag on the high seas by means of fishing licences, authorizations, permits and other administrative means of the flag State, in accordance with procedures agreed on a subregional, regional or global level, including:

(i) National legislation to prohibit fishing, on the high seas and in areas of national jurisdiction, of other States by vessels that are not duly licensed or authorized to fish;

(ii) Requirements that vessels fishing on the high seas must carry the licence, authorization or permit on board the vessel at all times and must produce such licence, authorization or permit on demand for inspection by an authorized observer or inspector;

(iii) Requirements that information contained in a licence, authorization or permit is sufficient to fulfil any subregional, regional or global obligations of the flag State;

(c) Implementation of quotas and other control measures adopted in accordance with subregional or regional arrangements;

(d) Establishment of a national record of fishing vessels incorporating information on vessels entitled to fly its flag and authorized to fish on the high seas;

(e) Compliance with the requirements of regional or global registers of vessels fishing or authorized to fish on the high seas;

(f) Requirements for marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel and gear marking systems such as the Food and Agriculture Organization of the United Nations (FAO) Standard Specifications for the Marking of Fishing Vessels;

(g) Requirements for catch verification and validation through agreed observer programmes, inspection schemes, unloading reports, supervision of transshipment, dockside monitoring and monitoring of landed catches and market statistics;

(h) Implementation of national and regionally agreed inspection schemes, including requirements for vessels flying its flag to permit access by inspectors from other States in the region or subregion. Detailed requirements for inspection schemes must include requirements for vessel operators to allow any authorized person(s) to board vessels and carry out the duties agreed under the scheme;

(i) Implementation of national and regionally agreed observer programmes including requirements for vessels flying its flag to permit access by observers from other States in the region or subregion. Detailed requirements for observer programmes must include requirements for vessel operators to allow observers to board vessels and carry out the functions agreed under the programme;

(j) Installation and use of satellite transmitter equipment (vessel monitoring systems) in accordance with national and regionally integrated systems;

(k) The regulation of transshipment on the high seas to ensure that regionally agreed monitoring, control and surveillance measures are not undermined;

(l) Measures to implement, for vessels flying its flag, subregional, regional or global standards for collection of catch, effort and other relevant fisheries data in the agreed format and time-frame;

(m) Requiring compliance with international minimum standards for responsible fishing practices;

(n) Education and information programmes to ensure that their nationals understand the provisions of, and basis for, the conservation and management measures.

23. The responsibilities of flag States given above should be supplemented by regionally agreed systems of monitoring, control and surveillance, including vessel monitoring systems (VMS). Where there is a regionally agreed system of monitoring, control and surveillance in effect, flag States should ensure that the measures they impose are compatible with that system.

V. COMPLIANCE AND ENFORCEMENT OF HIGH SEAS FISHERIES CONSERVATION AND MANAGEMENT MEASURES

A. Compliance and enforcement by flag States

24. States shall ensure compliance by vessels flying their flag with applicable subregionally, regionally or globally agreed management measures, rules and standards. To this end, flag States should:

(a) Adopt legislation and administrative measures to ensure that vessels flying their flags comply with agreed conservation and management measures;

(b) Provide for the effective enforcement of such measures, rules and standards irrespective of whether violations occur;

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(c) Ensure that vessels flying their flags are prohibited from fishing on the high seas where they have committed a serious breach of agreed conservation and management measures, or other international rules and standards;

(d) Prevent the flagging or re-flagging of fishing vessels for the purpose of undermining international conservation and management measures, including eliminating any financial incentives;

(e) Investigate immediately any alleged violation of agreed management measures, including the physical inspection of the vessel(s) concerned;

(f) Make every effort to investigate fully and properly the alleged violation and report promptly to the aggrieved State and the relevant subregional, regional or international organization on the progress and outcome of the investigation. Investigations may be undertaken directly, in cooperation with other concerned State(s), or through the relevant subregional or regional fisheries management organization or arrangement. Information on the progress and outcome of the investigations should be provided to all interested States;

(g) Require any vessel(s) flying their flags to give information regarding catches, activities and fishing operations in the area of an alleged violation, where there are grounds for believing that the vessel(s) has committed such a violation.

25. A flag State conducting an investigation of an alleged violation may request the assistance of any other State whose cooperation may assist in clarifying the circumstances of the case. All States should endeavour to meet reasonable requests of the flag State in connection with such interventions.

26. If a flag State is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, the flag State should, without delay, institute such proceedings in accordance with its laws and, where appropriate, detain the vessel(s).

27. All States shall take measures for their nationals, including owners, charterers, masters and fishing masters, to ensure that they comply with agreed conservation and management measures and other international rules and standards. Such measures may include cancellation or suspension of authorizations to serve as vessel masters or fishing masters on vessels fishing on the high seas.

28. Sanctions applicable in respect of such violations must be of sufficient gravity as to be effective in securing compliance and to act as a deterrent, and should deprive offenders of the benefits accruing from their illegal activities.

B. <u>Regional arrangements for compliance and enforcement</u>

29. A flag State should cooperate with relevant coastal States and through regional fisheries management organizations or arrangements in the development of regionally agreed procedures for the conduct of fisheries surveillance and law enforcement. Where appropriate, fisheries surveillance should be conducted in accordance with such regionally agreed procedures. Within regions or

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subregions, States should cooperate in the enforcement of their fisheries laws and regulations including specific agreements for that purpose. To this end States should agree, inter alia, on procedures under which the appropriate authorities of one State may board, inspect and, if appropriate, arrest a fishing vessel entitled to fly the flag of another State, including the notification requirements for such action and the procedures under which one State might detain the vessel of another State.

30. Within regions or subregions, where registers of fishing vessels have been established, States may take cooperative action to prevent vessels which have violated agreed management measures, rules or standards, from fishing in the region until such time as corrective action is taken by the flag State.

31. When an unregistered fishing vessel is sighted operating in a regulated fishery, the appropriate authorities of a State may take such action as is necessary to arrest and, if warranted, prosecute the vessel. The arresting State shall detain the crew only for the period necessary to bring the arrested vessel to the nearest port of the State and to complete its investigations. It shall expeditiously carry out all investigations and judicial proceedings. It shall, as soon as practicable, inform the State or States of which the crew are nationals of the action taken.

32. When a fishing vessel conceals its identification or indicates a registry to which it does not belong, a State may take such action as is necessary to board, inspect and, if appropriate, arrest the vessel. It shall, as soon as practicable, inform the State or States where the vessel is registered of the action taken. The arresting State may detain the vessel for such reasonable period as is necessary for the flag State to take control of the vessel for enforcement purposes. The arresting State may, with the agreement of the flag State, take other appropriate action.

VI. PORT STATES

33. A port State should take, in accordance with international law, such measures as are necessary to promote the effectiveness of international conservation and management measures. To this end, a port State may inspect documents and catch on board fishing vessels in its ports and offshore terminals and may deny access to these facilities. A port State may also carry out such inspections at the request of another State in order to assist such other State in enforcement of its laws.

34. In the event that such inspection or other evidence discloses clear and reasonable grounds for suspicion that the vessel has contravened or otherwise undermined international conservation and management measures or has fished on the high seas without an authorization, licence or permit, the port State shall inform the flag State and the requesting State, if any. Regional fisheries management organizations or arrangements should provide port States with authority to detain vessels for such reasonable period as is necessary for the flag State to take control of the vessels for enforcement purposes. If the port State detains a vessel for this purpose it must promptly inform the flag State.

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VII. NON-PARTIES TO A SUBREGIONAL OR REGIONAL AGREEMENT OR ARRANGEMENT

35. Vessels flying the flag of a State not cooperating with a competent regional fisheries organization or arrangement should not fish contrary to the terms of the conservation and management regime established by that organization or arrangement and a non-party should not issue a licence or permit to its vessels allowing fishing within the regulatory area.

36. Where a State does not participate in the work carried out through subregional or regional fisheries management organization or arrangement, that State is not discharged from the obligation to cooperate in the conservation and management of the regulated stocks.

37. States which are members of or participate in a regional fisheries management organization or arrangement shall exchange information with respect to the activities of fishing vessels flying the flags of non-parties that undermine the effectiveness of conservation and management measures established by the organization or arrangement.

38. States shall cooperate in a manner consistent with international law to the end that fishing vessels entitled to fly the flags of non-parties do not engage in activities that undermine the effectiveness of relevant international conservation and management measures.

VIII. DISPUTE SETTLEMENT

39. All States shall cooperate in order to prevent disputes. To this end, they shall, in particular, agree on efficient and expeditious decision-making procedures in regional fisheries management organizations or arrangements and strengthen existing decision-making procedures as necessary.

40. All States have the obligation to settle their disputes by peaceful means.

41. In the event of a dispute of a technical nature, States concerned shall refer the matter to an ad hoc expert(s) panel, which shall confer with the States to resolve the matter without recourse to formal dispute settlement procedures.

42. Where all parties to a dispute are Parties to the United Nations Convention on the Law of the Sea, the procedures for the settlement of disputes under that Convention shall apply.

43. States that are participants in regional or subregional fisheries management organizations or arrangements should strengthen or adapt the procedures for the settlement of disputes established by such organizations or arrangements in order to achieve the timely and effective resolution of fisheries disputes. To this end, they should adopt and comply with procedures for compulsory recourse to binding arbitration, of the type described in annex 2, in the expeditious settlement of disputes relating to the conservation and management of straddling fish stocks and highly migratory fish stocks,

including recourse to scientific or other expert advice or to an ad hoc expert(s) panel, as necessary.

44. Where, within a reasonable period of time to be established by the regional organizations, no settlement has been reached by recourse to these procedures, or the compulsory procedures entailing binding decisions provided under the United Nations Convention on the Law of the Sea, or under other instruments in force between them, an arbitration procedure of the type described in annex 2 shall apply.

45. States that are not participants in a regional or subregional fishery management organization or arrangement may invoke or submit voluntarily to the dispute settlement procedure established by the organization or arrangement. In this event, they shall be bound by the decision taken in the case. States which are participants in such organizations or arrangements may submit to the above-mentioned procedure when it is invoked by non-participants.

46. The application of these procedures shall not prejudice the rights and duties of States specified in the United Nations Convention of the Law of the Sea, particularly the provisions of part XV thereof, concerning the settlement of disputes.

IX. COMPATIBILITY AND COHERENCE BETWEEN NATIONAL AND INTERNATIONAL CONSERVATION MEASURES FOR THE SAME STOCK

47. Coastal States and States fishing on the high seas have a duty to cooperate and achieve compatible, coherent and coordinated measures for the conservation and management of straddling fish stocks and highly migratory fish stocks.

48. In developing conservation and management measures for straddling fish stocks and highly migratory fish stocks, States shall recognize the interdependence of stock components harvested in areas under national jurisdiction and on the high seas. States regulating fisheries in areas under their national jurisdiction, and subregional or regional organizations or arrangements establishing conservation and management measures for the same stock(s) on the high seas, should achieve compatible and coherent conservation and management measures. Establishment of such measures shall be without prejudice to the sovereign rights of the coastal State(s) for the purpose of exploring, exploiting, managing, and conserving living marine resources within areas under national jurisdiction, exercised in accordance with the United Nations Convention on the Law of the Sea.

49. In determining conservation and management measures for straddling fish stocks and highly migratory fish stocks on the high seas, States, either directly or through subregional or regional organizations or arrangements, shall:

(a) Ensure that the measures do not result in transferring (directly or indirectly) a disproportionate burden of the need for conservation action onto the coastal State(s);

(b) Ensure that the measures do not result in undue harmful impact on the living marine resources within the areas of national jurisdiction;

(c) Ensure that the measures established in respect of the high seas are no less stringent than those established in areas under national jurisdiction in respect of the same stock(s);

(d) Give due regard, in the interests of all States concerned, to:

(i) The measures taken or proposed by the coastal State(s) within areas of national jurisdiction;

(ii) The relative dependence of the coastal State(s) and States fishing on the high seas on the stock(s) concerned;

(iii) The impact of high seas fishing on the stock(s) and on associated and dependent species within areas under national jurisdiction;

(iv) The particularities of the region and the biological characteristics of the stock(s) concerned.

50. Where agreement is reached on conservation and management measures for the high seas that are more stringent than those applied in areas of national jurisdiction, in respect of the same stock(s), the coastal State(s) concerned shall voluntarily apply conservation and management measures equivalent in effect to the relevant measures applicable on the high seas in areas under their national jurisdiction.

51. If, in spite of the processes outlined above, States are unable to agree on conservation and management measures for the high seas, States shall nevertheless continue their efforts to reach agreement and States fishing on the high seas shall observe, provisionally and voluntarily, conservation and management measures equivalent in effect to those applying in respect of the same stock(s) in areas under national jurisdiction and, in the absence of such measures, observe minimum international standards or otherwise act in a manner consistent with the duties imposed on States under the Convention, until agreement is reached.

X. SPECIAL REQUIREMENTS OF DEVELOPING COUNTRIES

52. In exercising their rights and fulfilling their responsibilities with regard to straddling fish stocks and highly migratory fish stocks on the high seas, States should give full recognition to the special requirements of developing countries. In this regard, States shall cooperate, at a global, regional, subregional or bilateral level and, as appropriate, through subregional, regional and international organizations, especially the FAO, to provide assistance to developing countries.

53. In giving effect to the duty to cooperate in the establishment of conservation and management measures for straddling fish stocks and highly migratory species, States shall take into account the special requirements of developing countries, in particular:

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(a) The vulnerability of developing countries whose geographical situation makes them dependent upon the exploitation of living marine resources for the nutritional requirements of their populations or parts thereof;

(b) The vulnerability of developing countries, particularly small island developing countries, whose populations are culturally and economically dependent on marine resources, especially in terms of the impact on subsistence fisheries;

(c) The need for specific assistance, including financial, scientific and technological assistance and training, in order that developing countries can fulfil their obligations with respect to conservation and management, of straddling fish stocks and highly migratory fish stocks.

54. Specific forms of cooperation with developing countries for the purposes set out in the present section shall include financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including joint venture arrangements, and appropriate advisory and consultative services. Assistance should be directed in the following areas:

(a) Collection, reporting, verification and exchange of fisheries and fisheries-related data and information;

(b) Stock assessment and scientific research;

(c) Monitoring, control and surveillance, including training and capacity-building at the local level, the development and funding of national and regional observer programmes and access to technology and equipment;

(d) Access to dispute settlement mechanisms within regional and subregional arrangements;

(e) Greater participation of developing countries in fisheries for straddling fish stocks and highly migratory fish stocks.

55. States shall cooperate to enhance the ability of developing countries to conserve, manage and develop their own national fisheries for straddling fish stocks and highly migratory fish stocks in the exclusive economic zone and on the high seas. Such cooperation shall take the form of special assistance to developing countries, including allowing for favourable access for developing countries to high seas areas adjacent to their exclusive economic zones located in a particular subregion or region to enable them to participate in high seas fisheries for straddling fish stocks and highly migratory fish stocks.

56. States shall cooperate to establish a voluntary fund to enable developing countries to meet the costs involved in any dispute settlement proceedings in which they may be involved.

57. States and international organizations should assist developing countries in establishing new fisheries organizations or strengthening existing organizations concerned with the conservation and management of straddling fish stocks and highly migratory fish stocks.

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XI. REVIEW OF THE IMPLEMENTATION OF CONSERVATION AND MANAGEMENT MEASURES

58. States, subregional and regional organizations and arrangements concerned with the conservation and management of straddling fish stocks and highly migratory fish stocks shall implement the foregoing based on their capacities and the needs of the region. They should report biennially to the Secretary-General of the United Nations who should submit a report to the General Assembly on a regular basis, taking into account information provided by FAO on the progress made in the implementation of the contents of this document, with a full review by a conference to be held in five years. The conference shall review and assess the adequacy of the provisions of this document and, if necessary, propose means of strengthening the substance and methods of implementation of the provisions and measures of this document in order to address any continuing problems in fisheries for these stocks.

Notes

1/ For the purposes of these provisions, references to States should be interpreted as including the European Economic Community in matters within its competence. These provisions also apply to the fishing entities whose vessels fish on the high seas.

Annex 1

MINIMUM DATA REQUIREMENTS FOR THE CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

1. The timely collection, compilation, analysis and evaluation of data are fundamental for effective fishery conservation and management. These data include catch and fishing effort statistics and other fishery-related information, such as data relating to vessel identity, performance, etc. Data collected in support of conservation and management of target stocks must also include information on associated and dependent species, whether they are fish or non-fish species. Data collected must be verified to ensure accuracy, while maintaining the confidentiality of non-aggregated data to ensure cooperation by industry.

2. Consideration should be given to enhancing training and providing financial and technical assistance to developing countries with regard to building capacity in the field of conservation and management of living marine resources. The fullest possible involvement of developing country scientists and managers in fisheries conservation and management should be promoted. Assistance should focus on enhancing capacity to implement data collection and verification, observer programmes, data analysis and research projects supporting stock assessments.

Fishery Data Collection

3. The following general principles should be considered in defining the parameters for collection, compilation, and exchange of data from high seas fishing operations:

(a) A State is obliged to collect adequate data from vessels flying its flag;

(b) Data should be collected on fishing operations in sufficient detail and in accordance with the nature of the fishery (e.g. individual trawl tow, long-line set, school fished for pole-and-line and purse-seine, day fished for troll) so as to maintain flexibility in the analysis of these data;

(c) Flag States must compile fishery catch and effort data in an internationally agreed format and provide them in a timely manner to the relevant regional fisheries organization or arrangement;

(d) Scientists of the flag State and from the relevant regional fisheries organization or arrangement should analyse these data separately or jointly, as appropriate;

(e) Data collected from each fishery must be disseminated in a timely manner and in an agreed format to the participants in the organization or arrangement.

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Basic Fishery Data Requirements

4. As a minimum, the following types of data should be collected concerning all straddling fish stocks and highly migratory fish stocks in sufficient detail to facilitate effective stock assessment:

(a) Time series of historical catch and effort statistics by fleet from the start of the fishery;

(b) Total catch in number and/or nominal weight [defined by FAO as: (landings + losses due to dressing, handling and processing - gains prior to landings) conversion factors] by species of target and non-target species, including non-fish species, as is appropriate to each fishery;

(c) Discard statistics, including estimates where necessary, reported as number and/or nominal weight by species;

(d) Effort statistics appropriate to each fishing method;

(e) Fishing location, date and time fished, and other statistics on fishing methods as appropriate.

Scientific Data Supporting Stock Assessment

5. In addition to collection, compilation and exchange of fishery data, States are obliged to exchange scientific data. These data should include:

(a) Length, weight and sex composition of the catch, where agreed;

(b) Biological parameters supporting stock assessments and other relevant research, including surveys of abundance, biomass surveys, hydro-accoustic surveys, research on environmental factors affecting stock abundance, and oceanographic and ecological data.

Such data should be exchanged through regional fisheries organizations or arrangements.

Vessel Data and Information

6. The following vessel-related data is required for standardizing fleet composition and vessel fishing power and for converting between different measures of effort in the analysis of catch and effort data:

(a) Vessel identification, flag and port of registry;

(b) Vessel type;

(c) Vessel specifications (e.g. material of construction, date built, registered length, gross registered tonnage, power of main engine(s), hold capacity, catch storage methods);

(d) Fishing gear description (e.g. type, amount and gear specifications).

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7. The following information need not be provided if available through other means:

(a) Navigation and position fixing aids;

(b) Communication equipment;

(c) Crew size, etc.

Data reporting

8. The following data on high seas fishing operations should be sent at frequent intervals to the appropriate national fisheries administrations of coastal States and distant-water fishing nations according to the flag of the fishing vessel:

(a) Catch and effort log books, including data on fishing operations;

(b) Catch and effort reports by radio, telex, facsimile and/or satellite transmission;

(c) Exclusive economic zone entry and exit reports.

Data Verification

9. The following types of fishery information and mechanisms for verifying fishery data should be established for high seas fishing operations:

(a) Position verification by satellite transmission equipment;

(b) Scientific observer programmes to verify catch, effort, catch composition and other details of fishing operations;

(c) Vessel trip, landings and transshipment reports to verify catches;

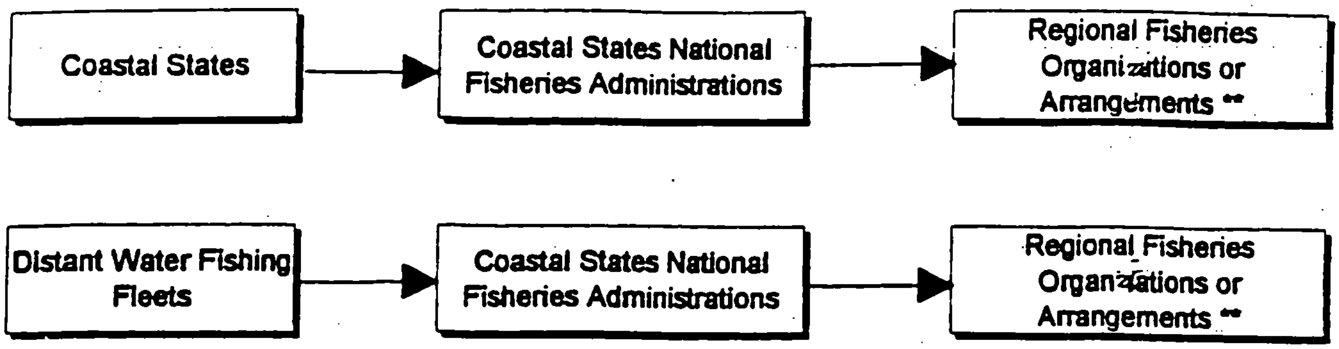
(d) Port sampling to verify catch composition and amount.

Data Exchange

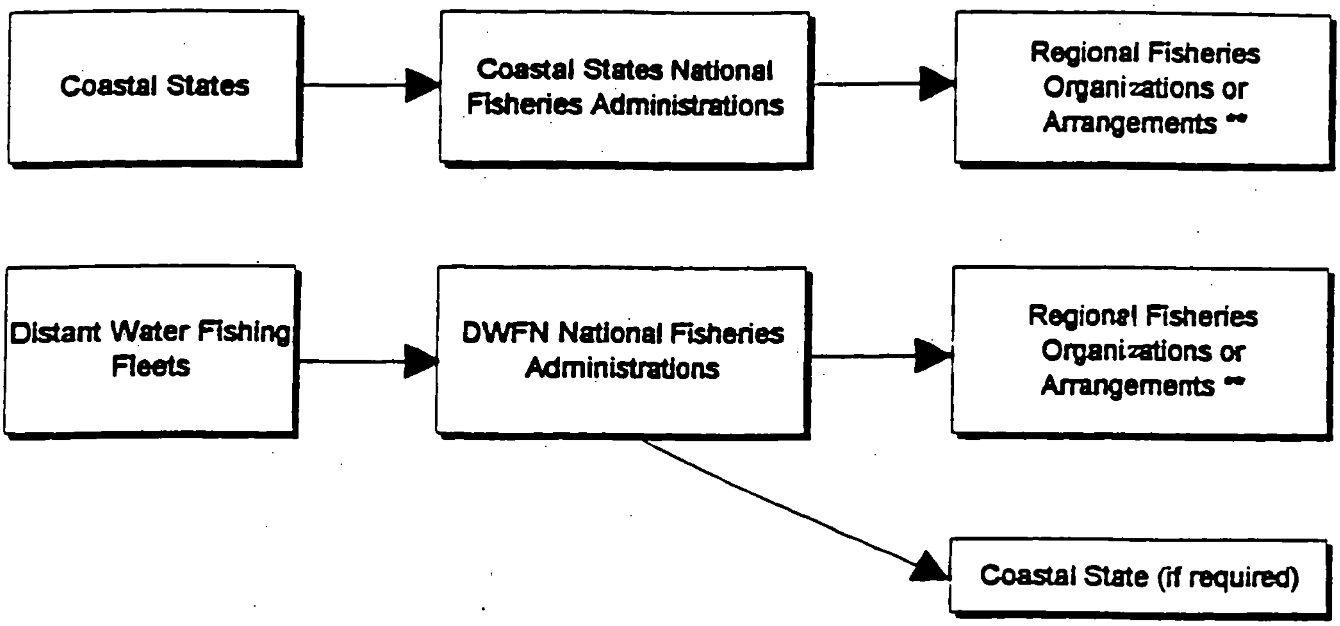
10. Proper conservation and management of straddling fish stocks and highly migratory fish stocks require the availability of relevant fisheries data from the entire stock. Data collected by flag States must therefore be shared through appropriate regional fisheries organizations or arrangements. The regional fishery organization or arrangement shall endeavour to compile data from the stocks as a whole and make data available to all interested parties.

11. The following models of data exchange outline mechanisms currently in effect:

Data Flow Arrangements within Coastal State EEZs



Data Flow Arrangements for High Seas Fishing Operations



** After compilation, the regional fisheries organization disseminates data to all relevant parties.

At the global level, collection and dissemination of global data should be effected through the Food and Agriculture Organization of the United Nations (FAO). Where a regional organization or arrangement does not exist, FAO may also do the same at a regional level by arrangement with the States concerned.

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Annex 2

ARBITRATION

Institution of proceedings

1. Any party to a dispute may submit the dispute to arbitration by written notification addressed to the Secretary-General of the United Nations, who shall notify the other party or parties to the dispute and constitute an arbitral tribunal as set out herein. The notification shall be accompanied by a statement of the claim and the grounds on which it is based.

Constitution of arbitral tribunal

2. The arbitral tribunal shall, unless the parties to the dispute agree otherwise, be constituted as follows:

(a) The arbitral tribunal shall consist of three members, subject to subparagraph (f) below;

(b) The party instituting the procedures shall adopt one member, who may be its national. The appointment shall be included in the notification referred to in paragraph 1 above;

(c) The other party to the dispute shall, within 10 days of receipt of the notification, appoint one member, who may be its national. If the appointment is not made within this period, the appointment shall be made by the Secretary-General within a further 10 days;

(d) The two members thus appointed shall select, by mutual agreement, the third member, who shall be the chairman. Failing agreement, the Secretary-General shall make the appointment in 10 days. The chairman shall be a national of a third State;

(e) Any vacany shall be filled in the manner described for the initial appointment;

(f) Parties to the dispute with the same interest shall appoint one member of the tribunal jointly and by agreement. Where there are several parties to the dispute having separate interests, or where there is disagreement on whether they have the same interest, the Secretary-General shall appoint one member of the tribunal after consultation with the parties.

Submission of Memoranda

3. Within 10 days of the formation of the tribunal, the parties concerned shall file a memorandum with the tribunal, copies of which shall be transmitted to all parties.

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Hearings

4. A hearing shall be convened at a place and on a date to be determined by the tribunal within 30 days following the formation of the tribunal.

Procedure

5. Unless the parties to the dispute agree otherwise, the arbitral tribunal shall determine its own procedures, assuring to each party full opportunity to be heard and to present its case.

Duties of parties to a dispute

6. The parties to the dispute shall facilitate the work of the arbitral tribunal.

Expenses

7. Unless the arbitral tribunal decides otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares.

Required majority for decision

8. Any decision of the arbitral tribunal shall be taken by a majority of its members.

Default of appearance

9. If one of the parties to a dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and make its award. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its award, the arbitral tribunal must satisfy itself, not only that it has jurisdiction over the dispute, but also that the claim is well founded in fact and in law.

Provisional measures

10. The tribunal may prescribe provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties or to prevent damage to the stock(s) in question, pending the final decision.

Award

11. The award of the arbitral tribunal shall be confined to the subject-matter of the dispute and state the reasons on which it is based. The tribunal shall communicate its decision to all parties within 30 days of the end of the hearing. Reasons in writing shall be communicated to the parties within 60 days of the decision.

Finality of award

12. The award shall be final and without appeal. It shall be complied with by the parties to the dispute.

Interpretation or implementation of the dispute

13. Any controversy which may arise between the parties to the dispute as regards the interpretation or manner of implementation of the award may be submitted by either party for decision to the arbitral tribunal which made the award.

Application to entities

14. The provisions of the present annex shall apply, *mutatis mutandis*, to any dispute involving any entities to the dispute.
