

TESTIMONY BEFORE THE SUBCOMMITTEE ON
FISHERIES AND OCEANS

U.S. HOUSE OF REPRESENTATIVES

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Hearing on the Multi-State and International Fisheries
Conservation and Management Act of 2006

My name is Ken Hinman, and I am here as president of the National Coalition for Marine Conservation, an independent non-profit organization devoted exclusively to conserving ocean fish and their environment. The NCMC was founded in 1973 by conservation-minded fishermen. I have been actively involved in marine fisheries issues since 1978, a period that corresponds with the evolution of marine fish conservation in the United States. During this time, I've witnessed the many changes Congress has made to our fisheries laws, in response to both the changing needs of our fisheries and our increasing knowledge about the fish, their behavior, their habitat and, more recently, the ocean ecosystems they are such a critical part of.

Mr. Chairman, committee members, I appreciate this opportunity to speak to you today on the *Multi-State and International Fisheries Conservation and Management Act of 2006*. The statutes covered by this reauthorization bill all address the challenge of managing fisheries that know no boundaries. The challenge is not just reconciling political boundaries *per se*, as fish migrate from watershed-to-mouth, along the coast, or across the ocean. It is also the challenge of coordinating the activities of the various management bodies throughout the institutional ecosystem, which becomes even more critical as we expand our conservation and management goals to include related species; to protect key predator-prey relationships in the food chain and the essential habitats of both predators and prey.

I will limit my comments to two bills being reauthorized by this committee: the Interjurisdictional Fisheries Act of 1986 and the Atlantic Tunas Convention Act of 1975.

By way of background, I served on the National Marine Fisheries Service Ecosystems Principles Advisory Panel (EPAP) and was a co-author of its Report to Congress, "Ecosystem-Based Fishery Management." I am currently a member of the U. S. Advisory Committee to ICCAT and a member of the NMFS Billfish Advisory Panel.

Interjurisdictional Fisheries Act

One of the greatest challenges we face today in conserving migratory fish is moving into an ecosystem-based approach to fisheries management. The Interstate Marine Fisheries Commissions and the Regional Fishery Management Councils are making that move. But the shortage of science to support new approaches to management is often cited as the chief obstacle to progress.

In the last reauthorization, a new purpose was added to the Interjurisdictional Fisheries Act - to "promote and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of interjurisdictional fishery resources throughout their range."

The research and data collection programs of state and federal agencies need to be strengthened to meet the growing demands of ecosystem-based fishery management. It is not as simple as declaring a common purpose, or providing adequate funding, although these are critical. Above all, success requires improved coordination and communication among agencies, researchers, scientists, stakeholders and fishery managers. And it requires developing agreed-upon priorities for multi-species research and data collection.

The IFA directs the Secretary of Commerce to review state or interstate proposals according to a set of research criteria, including the consistency of the proposed project with the purposes of the Act. Among these purposes, as I mentioned, is promoting research into interspecies approaches. More needs to be done to actively encourage this research.

The Secretary, working with the states and interstate commissions, should develop what are being called regional

“fishery ecosystem plans” that specify research needs and priorities for data collection for the managed fisheries within defined ecosystems. The plans should prescribe the use of multi-species models to determine the ecosystem effects of fishing and to facilitate the application of research results directly to identified management needs.

Toward this end, Congress might consider appointing a Task Force to study ways to standardize the research goals and activities conducted under the Magnuson-Stevens Act and Interstate Fisheries Compacts as regards ecosystem-based fishery management.

Atlantic Tunas Convention Act

The Atlantic Tunas Convention Act is the domestic instrument for implementing the recommendations of the International Commission for the Conservation of Atlantic Tunas. As such, it is critical to the success of highly migratory species management in the U.S. But I want to stress that ATCA is a vehicle on a two-way street. It should and does state that the U.S. is guided at ICCAT by the goals and mandates laid out in the Magnuson-Fishery Conservation and Management Act (MSA). In fact, ACTA stipulates that regulations promulgated under the Act shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the MSA. The MSA set the broad goals of U.S. policy at ICCAT, even though we are often compelled to compromise in order to achieve international consensus. The higher standard of the MSA, however, is the reason the U.S. has been *the* leader in conservation at ICCAT since the treaty was signed in the 1960s.

I want to briefly touch on three issues.

First, we recommend adding language on essential fish habitat to the secretarial responsibilities and research requirements of ATCA. It would be consistent with the MSA, and would reflect recent changes in the evolution of conservation and management at ICCAT. At the 2005 meeting in Seville, Spain, ICCAT adopted a resolution to protect pelagic *sargassum*, essential offshore habitat for tunas, swordfish and billfish, a first-step into the realm of ecosystem-based fishery management for highly migratory species in the Atlantic.

Next, a key provision of ATCA is one that precludes the Secretary from decreasing a quota authorized by ICCAT. (There is similar language in the MSA.) This provision has been controversial, in that it is seen by some as preventing the U.S. from being more conservative when such action would benefit a stock of fish important to U.S. fisheries. But the law does, I believe, allow for some flexibility in the use of other, non-quota based management strategies if they can be shown to provide substantial conservation benefit to highly migratory species without unduly disadvantaging U.S. fishermen.

The U.S. Atlantic Highly Migratory Species Fishery Management Plan, currently being amended by the Secretary, contains measures that, according to this ATCA provision, are in conflict. One preferred alternative implements the ICCAT recommendation of an annual quota of 250 Atlantic blue and white marlin. In fact, “(t)o provide for *maximum utilization* of the United States’ recreational Atlantic marlin landing limit without exceeding it,” NMFS would increase the minimum size limit for blue and/or white marlin, as appropriate, in-season.

But another preferred alternative in the proposed plan would prohibit landing *any* white marlin, making the fishery catch-and-release-only. That is, a quota of zero.

According to the law, the Secretary shall with respect to a highly migratory species for which the United States is authorized to harvest an allocation or quota, provide fishing vessels of the United States with a *reasonable opportunity* to harvest such an allocation or quota. NMFS’ interpretation of this provision has always been that we could not unilaterally lower an ICCAT-established quota.

In the case of white marlin, the ATCA provision does not conflict with MSA goals nor is it an obstacle to additional conservation, since there would be little conservation benefit from restricting the landings of less than a hundred recreationally-caught fish. Moreover, the catch-and-release-only recommendation is a response to a pending petition to list white marlin under the Endangered Species Act. A new Atlantic-wide assessment of marlin will be conducted by ICCAT later this year, and NMFS will hold a Status Review under the ESA in 2007 to determine if listing is warranted. With this process underway, it is premature to prohibit landing white marlin under the current FMP amendment.

Lastly, since adoption of the ICCAT swordfish rebuilding plan in 1999, the U.S. has not landed its quota. Some would argue that this is the result of the U.S. going beyond ICCAT recommendations – and specifically, enacting time-area closures to minimize longline bycatch – and that as a consequence, now that ICCAT considers swordfish rebuilt, the U.S. could lose a portion of its historical share to other countries. I do not agree.

There are a lot of unanswered questions here: (1) Are the closures alone the reason for the shortfall in swordfish catch?

(2) Would re-opening these areas really benefit U.S. fishermen? (3) Are swordfish really “recovered”?

(1) The U.S. wasn't catching its quota before the closures were put in place. Total longline effort, measured in numbers of hooks fished, is down by only 5% from pre-closure fishing effort. Participation (# of vessels) was dropping before the closures were implemented in 2001. Swordfish effort has been re-directed in recent years to more valuable yellowfin tuna, because swordfish prices are down. Fuel costs are up, cutting trips to distant fishing grounds and cutting trips short.

(2) The closures were implemented to protect juvenile swordfish. Although the stock is rebuilding, it is still predominately pre-spawning age fish. If the closed areas were re-opened, the catch of juvenile broadbill would increase dramatically. The closed areas are nursery grounds, and a substantial part of the catch there, as before the closures, would be discarded. Bycatch of blue and white marlin, both of which are severely overfished, would also increase. The closures have reduced billfish mortality by about 50%. The benefits of the closures are far-reaching – small swordfish, billfish and sharks – and must be considered in the broader sense of highly migratory species conservation.

(3) The swordfish stock may in fact still be years from recovery, at least in the western Atlantic. Failure to catch our quota in the midst of a “fully recovered stock” indicates more that it isn't recovered than that closed areas are keeping the catch down. The best way to increase our catch is to strengthen the recovery, and that means allowing it to grow more large fish.

I agree we need to revitalize the U.S. swordfish fishery as we approach a long-awaited recovery. The question is how.

The wisest course would be for the U.S. to go to ICCAT and, based on our stellar record of swordfish conservation – we've done far more than other nations, some of which did not fully comply with ICCAT regulations – and our exceptional contribution to the rebuilding effort, make it clear the U.S. fishery is in transition while we reconfigure our fishery to utilize our historical share of the swordfish resource in the most sustainable manner possible.

The Secretary should be directed to develop a U.S. rebuilding plan that features a vision of what the fishery of the future should look like and a plan to make it a reality. With changes in the longline fishery that are inevitable because of multiple bycatch reduction requirements, the U.S. should actively promote the growth of traditional hand gear fisheries, including the rod-and-reel fishery, but most of all the commercial harpoon fishery of the northeast. Based on history, we know that an abundant population of Atlantic swordfish, as existed in the 1950s and '60s, will be capable of producing yields equal to our current ICCAT quota and, with a mix of commercial and recreational fisheries – rather than a predominately longline-based fishery – we can sustain it for the long term while minimizing bycatch and discard of other highly migratory species.

I hope my comments today are helpful to the committee, and I'll be happy to answer any questions. Thank you again for giving me this opportunity.